

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 14, 2013

SUBJECT	DESCRIPTION	PRESENTER
Introduction	Committee Page: Mattison (Matti) McDaniel	Chairman McKenzie
Presentation	Idaho Criminal Justice Commission Overview & Update Pending Rules: <u>Department of Administration</u>	Brent D. Reinke, Chairman Teresa Luna, Director
Docket No. 38-0406-1202	38.04.06-Rules Governing Use of the Exterior of State Property - <u>Page 7</u>	
Docket No. 38-0407-1202	38.04.07-Rules Governing Use of the Interior of State Property - <u>Page 21</u>	
Docket No. 38-0408-1202	38.04.08-Rules Governing Use of Idaho State Capitol Exterior (New Chapter) - <u>Page 31</u>	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 14, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway and Werk

ABSENT/ EXCUSED: Senator Stennett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** convened the meeting at 8:00 a.m., Monday, January 14, 2013, with a quorum present and noted that Senator Stennett was excused.

Chairman McKenzie introduced **Mattison (Matti) McDaniel**, who is serving as Committee page for the first half of this session. **Matti** was asked to describe some of her current activities and future plans. She will be completing an Emergency Medical Technician (EMT) class and will be a certified EMT in February. She is a Senior at Centennial High School, Vice President of Health Occupations Students of America (HOSA) specializing in sports medicine and a member of the volley ball team. **Matti** plans to attend Utah State University majoring in Human Body Movement and Development. **Chairman McKenzie** and the members of the committee welcomed **Matti**.

PRESENTATION: **Chairman McKenzie** introduced **Brent D. Reinke**, Chairman of the Idaho Criminal Justice Commission, to present the 2013 Legislative Update.

Mr. Reinke explained that the Commission is made up of 25 members from all three branches of government plus county, city and citizen representatives who meet ten to eleven times a year. They deal with all issues facing Idaho's criminal justice system. He introduced several members of the Commission who were present.

Mr. Reinke stated that the focus of the update will be on public defense, human trafficking and sex offender management. **Sara Thomas**, State Appellate Public Defender, who has been intimately involved with the Public Defender Project will begin the discussion. She will also cover the human trafficking issues.

Ms. Thomas opened her remarks with recommendations for the public defense situation in Idaho and how it can be improved. She then spoke about human trafficking in Idaho, the Criminal Justice Commission (CJC) involvement and the appointment of a subcommittee that would work on human trafficking this year. Recommendations for legislation have been developed to address those issues.

The CJC has recommended the following legislation that could go forward this year: 1) Statutes on the uniform appointment of counsel; 2) Juvenile's right to counsel; and 3) Appointment of counsel-Guardian ad litem. CJC has also recommended that an interim committee look at the Idaho system.

Ms. Thomas stated that anyone charged with a serious crime and facing jail time is entitled to representation by a public defender if they meet the statutory guidelines on indigency. Currently Idaho allows each judge in each case to decide whether or not someone is indigent. There is no standard of uniformity and each instance can be addressed differently county by county and even judge by judge. One of the recommendations is to install a presumption of indigency if a person is 250 percent of the federal poverty guideline, or receiving public assistance, or currently incarcerated.

Senator Davis asked for an explanation of the 250 percent of federal guidelines and how it translates into gross income. **Ms. Thomas** responded that a one person family income would be \$27,925 and a family of four would be \$57,625. That is 250 percent of the guidelines. **Senator Davis** asked that the actual numbers for the guidelines and the computations be provided. **Ms. Thomas** agreed to do so.

Chairman McKenzie inquired if there would be a standard form and uniformity in the process in which income was reported. **Ms. Thomas** stated that such a form is not in the legislation. However, the Idaho Supreme Court is looking at that issue. The new legislation also provides some protections that when those forms are filled out, they can only be used for certain purposes to avoid other problems.

Senator Hill asked if there is currently a presumption of indigency and the answer was that there is not.

Ms. Thomas moved on to juvenile representation. Currently 11 percent of juveniles who are actually incarcerated in Idaho never had an attorney when they were going through the court system. In fact, Idaho's *Juvenile Rule 6 (i)* allows prosecutors to negotiate plea agreements with unrepresented children. CJC has recommended legislation that would ensure that there are specific standards for juvenile representation.

CJC also addresses a current problem with Idaho law which allows an attorney to act both as guardian ad litem as well as the child's attorney. There is an inherent conflict because of the responsibilities of each assignment.

Ms. Thomas addressed the recommendation that an interim legislative committee be formed to review how public defense services are provided in Idaho. It would determine the best system, cost of changes and identify appropriate funding mechanisms.

Ms. Thomas explained that the CJC created a subcommittee to look at human trafficking in Idaho. Two questions were addressed: 1) Did Idaho have a human trafficking problem? and 2) Does Idaho need legislation to address these problems? The results of the study showed that Idaho has a growing human trafficking problem and that gangs are involved. Human trafficking is not a crime but is a sentencing enhancement only if done in connection with another substantive crime. Idaho needs additional statutory authority. There are gaps in current Idaho law regarding human trafficking. CJC would like to change Idaho human trafficking law to address three specific issues:

- 1) Make it a felony to use an underage person for prostitution.
- 2) Broaden the definition of sexual prostitution for a minor so it isn't just for a fee but for anything of value, i.e., food, shelter or medical care in exchange for sexual behavior.
- 3) Take away the profits (money or property) of the perpetrators facilitating the crime.

Mr. Reinke referred to an Executive Summary (included as part of these minutes) from the standpoint of a public defender. There is also a package being developed for legislation for 2014 and that will be presented to the committee next year.

Sharon Harrigfeld, Juvenile Corrections, commented on the Results First Initiative. They are using a model produced by the Washington State Institute for Public Policy and customized it for Idaho's laws and data. Results First is a collaborative effort involving state agencies, the judiciary and counties. It is a result of a three step research project to locate real world evaluations, estimate the taxpayer and crime victim benefits and costs of the programs, and determine how alternative programs would affect prison demand, public spending and crime. The intent of this effort is to provide the legislature with a list of well researched policies that can lead to better statewide results and efficient use of taxpayer dollars.

Chairman McKenzie asked for questions.

Senator Siddoway referred to trafficking young people; were those sales short or long term? **Ms. Thomas** said the cases they referred to were short term.

Senator Winder ask if the issues that needed legislative help would come after the interim committee is established or will they come forward in this session. **Ms. Thomas** responded that there are two different areas. The interim committee will focus on the system itself. All other pieces of legislation will come forward this session.

Senator Fulcher expressed thanks to the CJC for this effort. They are very much appreciated.

Chairman McKenzie stated his thanks for the presentation and announced the beginning of the Pending Rules Review. **Teresa Luna**, Director, Department of Administration, will present their rules. **Chairman McKenzie** explained that when the Rules are brought before the committee, public testimony is not taken. There are those who had signed up to testify and they are listed on the sign up sheet. Questions from committee members will be heard.

PENDING RULES REVIEW

Department of Administration Rules **Ms. Luna** stated that the rules promulgated by the Department of Administration as a requirement of *H693* passed during the 2012 Session. These rules address the care, management and maintenance of Capitol Mall properties. There are three new chapters of rules before the committee governing the usage of the interior and exterior of Capitol Mall properties and for the exterior of the Capitol building itself including the Jefferson steps. **Ms. Luna** explained the criteria for developing the new rules which reflect the same policies, procedures and guidelines that the Department of Administration has used to manage the Capitol Mall properties. Each rule defines the properties in question, the hours of usage, any limits or restrictions, and administrative activities. The first draft of the rules was posted for public comment for 30 days in May and June of 2012 and was posted for public comment again in September after revisions were made.

Chairman McKenzie requested that the rules be reviewed in more detail since this is a new Chapter.

DOCKET NO. 38-0406-1202

38.04.06-Rules governing the exterior of State property, the Capitol Mall and other State facilities excluding the Capitol.

Ms. Luna described what kinds of buildings this rule covered. **Chairman McKenzie** asked if there was any reference to specific buildings. **Ms. Luna** deferred to **Julie Weaver**, Deputy Attorney General, who explained that *Section 67-5709(2)(a)(b)*, *Idaho Code* describes each of the properties.

Senator Davis referred to page 10 under "Written Interpretations" and asked **Ms. Luna** if, as of today's date, any written interpretations have been issued for the old Ada County Courthouse. **Ms. Luna** responded "no."

Senator Werk asked if the constitutionality of the provisions within these rules had been reviewed. **Ms. Weaver** responded that they had worked with the Civil Litigation Division as a team to draft this Chapter. There is currently litigation around the constitutionality of this Chapter. Any questions remaining will be resolved in that litigation. **Chairman McKenzie** asked if the litigation is over the statute that gave authority to write the rules or is it over the rules themselves or both. **Ms. Weaver** responded that it has been amended and broadened to include these rules. **Senator Davis** asked if there is a status report on the litigation. **Ms. Weaver** stated they were currently filing the briefs for summary judgement. She was not aware of a trial date.

Ms. Luna continued to page 12, "Other State Properties." H693 extended the opportunity for other agencies that managed properties, such as Parks and Recreation and the Historical Society, to opt into these rules if they chose with the permission of the legislature. The Idaho State Historical Society has asked to have all of their properties included and subject to these rules.

Senator Werk stated that it appears that one rule was developed and that theme was carried forward into the other two rules. Is that correct? **Ms. Luna** said yes, in general themes. **Senator Werk** went back to page 11, Subsection 07, defining event as a meeting of two or more people. What could that mean? If two people met on the Capitol steps to discuss a topic, is that considered an event? **Ms. Luna** said the short answer is no. page 14 addresses public use and the traditional trends of use by the public.

Ms Luna said that use of state facilities begins on page 14 describing what events and exhibits can be held, prohibited uses, commercial activity, private events, event and exhibit duration, what equipment and supplies will or will not be provided by the state, area closures ... **Senator Davis** referred to Section 200 and asked for further explanation on authorized and prohibited uses. **Ms. Luna** responded that these rules are based on policies and procedures that the Department has used for years. The area concerns the walkways and the grassy areas around the Capitol Mall, not the Capitol building itself. Traditionally those uses have been pedestrian and events are not typically held in those areas. However, they would be allowed during business hours or hours set forth in the rules. Prohibited usage would included commercial activity with a few exceptions: no camping, no private events and events where public access is restricted. State events and exhibits may occur anywhere within the State facilities. State maintenance and usage has priority over any usage. **Senator Werk** asked about the hot dog stand at the courthouse. Would that be a prohibited use? **Ms. Luna** said that concessions authorized by law are allowed.

Chairman McKenzie commented that private events are prohibited and those are defined on page 11. For clarification, if private citizens were protesting or supporting some public policy, does the purpose of protesting make it a public event? **Ms. Weaver** went back to the definition; it focuses on excluding the public from the event, not on the organization sponsoring it. Any organization can sponsor an event, it just has to allow anyone access who wants to attend.

Ms. Luna (back to page 14 - duration) Any individual or group is allowed to use the properties during the hours allowed not to exceed seven days in a row. They can leave for 24 hours and then return.

Section 202 deals with equipment and supplies. The Department would not provide a podium or public address system. Section 203-Establishment of Perimeters and Section 204-Area Closures allows the Department to close areas if deemed necessary for maintenance, etc.

Section 300 discusses Restrictions and Limitations on Use. An event should not interfere with the primary use of the facility and shouldn't block exits and entrances.

Section 302 outlines Hours and Locations of Use. Subsection 01: The hours of the Capitol Mall Office Properties are 7:00 a.m. to 9:00 p.m. during the months of March through October and 7:00 a.m. to 6:00 p.m. during the months of November through February. These properties have limited lighting and security between sundown and sunup. Subsection 02: The same rules cover the Capitol Annex which is part of the Capitol Mall Property definition. Sections 303 and 304 cover motorized and non motorized means of transportation or entertainment.

Senator Davis inquired about how the hours of use of the mall properties, which are time certain, relate to Section 201 that talks about seven consecutive days which he assumed to be a 24 hour period? Are those seven days not a 24 hour time period? **Ms. Luna** stated that it was not a 24 hour time period. They may use the property for seven days in a row during the hours of usage set forth in 302.01. **Senator Davis** questioned: What if the legislature is doing something that is perceived by some to be controversial, are you limiting their speech rights within the hours that are being subscribed under 302.01? **Ms. Luna** responded no. That will be made more clear in the Capitol exterior rules which allow, regardless of sunup or sundown, usage of the grounds surrounding the Capitol building to 30 minutes before and 30 minutes after the legislature adjourns. **Senator Davis** responded that the legislature does not normally go that late but there may be committees that run into the nighttime hours. Are you talking about the adjournment of the body or does it also speak in terms of committees? **Ms. Luna** said that the rule for the Capitol exterior says that when "either one or both of the houses of the legislature or any of the Legislative Committees are in session" – so it is either.

Senator Davis asked why a speech right would be limited to 30 minutes from adjournment. What is the public policy reason? **Ms. Luna** explained that the hours for the exterior of the Capitol building (reminder that those rules are in another section) are until midnight on the Capitol steps. **Ms. Luna** pursued 305-Animals, wild and domestic, and 306-Landscaping.

Senator Siddoway asked for a definition of the irrigation equipment in Section 306.03. **Ms. Luna** stated that this could mean removing equipment because of watering times when the irrigation heads need to pop up to allow the system to work properly. Staking is not allowed because it could damage the pipe system underground. **Senator Siddoway** referred to "interfere with equipment" and gave an example of what he thought that meant. **Ms. Luna** agreed and continued on with her explanation of Sections 307-312. Section 313-Sound Level and Amplification was explained in more detail.

Senator Werk asked if 313 would prohibit use of sound amplification. **Ms. Luna** stated that they do not want sound to be disruptive. **Senator Werk** inquired if this same rule was included in the Capitol building rules or is it modified. **Ms. Luna** answered that those rules are modified for the Capitol exterior. Ms. Luna went on with her explanation to the end of this docket.

DOCKET NO.
38-0407-1202

38.04.07 - Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities

Ms. Luna stated that these are the same properties that were discussed in the previous section for the exterior. The properties in question are housed by state agencies. The usage is the common areas of the Capitol Mall properties. **Senator Siddoway** noted that normally, in the negotiated rulemaking process, the agencies tried to bring together the opposing sides of an issue and would try to reach some kind of consensus. However, according to the language on pages 22-23, "further consensus between interested parties on the content of the rules is improbable" seems to indicate that negotiated rule making was not attempted. That seems like an abdication of the responsibility of the agency. **Ms. Luna** believed the language on page 22-23 was a true statement. They worked with Occupy Boise through mediation as well as the court case and law sessions to come up with acceptable guidelines since, at the time, there were no rules. They asked that the guidelines, very similar to these rules, be recognized and be followed. That was met with much disdain. They did not feel there was any hope of coming up with negotiated rules. **Senator Siddoway** asked if that was legal for an agency to not take on that responsibility. **Ms. Luna** answered "yes it is."

Ms. Luna proceeded to explain the definitions and rules. **Senator Winder** asked about the process that is followed when an additional property is added to one of the other state facilities. **Ms. Luna** responded that the facility would have to come before the Body for permission to add another property.

Senator Fulcher referenced 200.02.a—Prohibited Uses which states that the Interior State Facilities shall not be used by the public for press conferences, conferences, receptions or gatherings. Within the Capitol building, these kind of meetings occur and this rule does not have a provision for that. **Ms. Luna** stated that these rules are only inclusive of the Capitol Mall properties and excludes the Capitol building itself.

Ms. Luna continued with her explanation beginning with page 28 and ends on page 30 of the rule book.

**DOCKET NO.
38-0408-1202**

Rules governing use of the Idaho State Capitol exterior.

Ms. Luna said that these rules apply to the grounds directly adjacent to the Capitol building and in particular, the Jefferson steps and the East and West steps of the Capitol. **Ms. Luna** read through the items that are required for all rules on pages 33-36.

Senator Davis asked for confirmation of Section 002 that there are no written statements by the Department pertaining to the interpretations of this Chapter. **Ms. Luna** concurred.

Ms. Luna stated that the rules are similar until Rule 200-Use of State Capital Exterior which is very similar to the use of the Capital Mall exteriors. They talk about state events, exhibits, priority uses, duration, equipment and supplies which, in this case, can be reserved if the steps are reserved. Establishment of perimeters, area closures, and the restrictions and uses in Section 300.

Section 302-Hours and Locations of use. The same hours apply as previously explained with the exception of the legislative session where the 30 minute rule applies. There is further discussion about the Jefferson street steps which are available for public use 6:00 a.m. to 11:59 p.m. seven days a week. However, they can only be reserved during business hours.

Senator Davis recalled an incident two years ago where opponents to some legislation circled the entire Capitol building. In the event the legislature had adjourned and it was past the time period in the hour section, would that type of conduct be precluded by Section 302. **Ms. Luna** thought that instance would fall under the 30 minute rule. They would be allowed to be on the property 30 minutes before and after any committee meeting or floor activity. **Senator Davis** remembered that the march went on for an extended period of time. Are you saying that other than the use of the Jefferson Street steps, upon adjournment plus the 30 minutes, that type of speech would be restricted to the hours that are allowed. **Ms. Luna** said yes, it would be restricted to Capitol steps themselves.

Senator Winder referred to page 30, Section 302.01.d and noted it would prohibit events lasting 24 hours or any overnight use of the steps. **Ms. Luna** said that without a waiver from the Director, yes it would prohibit those types of activities. Once business hours at the Capitol are over, the security staff drops substantially and that was considered when developing the hours of usage. **Senator Winder** asked if a permit could be obtained to have a 24 hour event and if so, explain the process. **Ms. Luna** answered that they could not, not without a waiver from the Department. They would have to ask for a special exemption. There have been several instances in the past where there have been 24 hour events and those were not reserved or permitted, they just happened. Those would not occur under this rule.

Senator Davis pursued the "human chain" example which was intended to be symbolic and call attention to the traffic on State Street and Jefferson. It was an effective exercise of speech rights and it is hard to understand why it is appropriate to exercise rights up to midnight on the front of the Capitol but it is inappropriate to exercise those same speech rights within that time period on the East, West, and North side of the Capitol even though there may be security issues. Is that it? **Ms. Luna** agreed that security has a lot to do with it and in addition, the rules were based on the policies and procedures that were in place and on experience. As far as the circle goes, that type of event doesn't traditionally occur but the steps are used several times a day, every day. That event ended around dusk, which are essentially the hours that have been set. The lighting just doesn't allow for that type of activity after dark. It is asked that if an event goes past dark, it would be limited to the Capitol steps which is well lit and it is easier for security to maintain.

Senator Davis asked the intent of the Chairman regarding the closing of the discussion on the rules. **Chairman McKenzie** said he would close if all questions were answered and if they were not, voting would be held over until next meeting. **Senator Davis** stated that there is a lot to like about the proposed rules but there are areas of concern. He wanted to vote but had to leave early today.

Senator Werk assumed that the sidewalk around this building is considered a part of the Capitol Mall and is not included. **Ms. Luna** said the State property only goes up to the sidewalk. The sidewalk and mow strip are the property Ada County Highway District (ACHD) or the city. **Senator Werk** stated that any restrictions pertaining to the exterior of the Capitol would not apply to the sidewalk and mow strip. **Ms. Luna** concurred.

Ms. Luna began at page 39 talking about Sections 303 through 312. Section 313—Sound Amplification for the Capitol exterior which is only allowed by an authorized permit. **Ms. Luna** completed Sections 314 - 317.

Sections in the 400's pertained to Permits. This piece for the Capitol exterior is different from the other Mall and State facility sections. For many years the public has been allowed to reserve the Jefferson steps for up to four hours. Anyone is welcome to use the steps. However, if you want your place guaranteed or want equipment provided, a permit is required. **Ms. Luna** concluded her remarks after reviewing the remaining rules and stood for questions.

Senator Werk asked about the process. When these rules were put out for public comment, what were the deadlines and were those deadlines met before presenting the rules. **Ms. Luna** explained that *H693* was the bill that required the Department to promulgate rules within 30 days of signing. That bill was signed on March 30th. These three chapters of rules were developed and posted by April 17th and enforcement began on April 30th which was 30 days after the signing of the bill. The rules were up for public comment in May and June and 26 comments were received most of which dealt with the hours of the Capitol steps. After receiving the comments, hours were extended. The revised rules were posted on December 10th and then there was another 30 days for public comment. No comments were received on the revised rules. The rules were then published in the bulletin in October.

Chairman McKenzie stated that, based upon the request from Senator Davis to hold the vote on these rules until he could be here to vote and the absence of other committee members, the vote will be held until next meeting on Wednesday, January 16th.

The Department was asked to prepare these very quickly and they did an excellent job but they were not able to go through the negotiated rulemaking process.

Chairman McKenzie requested that the committee hear from **Monica Hopkins** from the American Civil Liberties Union of Idaho and who is co-counsel for the lawsuit which is not necessarily related to the policies behind the statute or the rules. They can state whether or not they believe this goes beyond the scope of what is in statute or constitutional authority. The Department of Administration will then address any further questions from the committee and then a vote will be taken.

ADJOURNED: There being no more business before the committee, **Chairman McKenzie** adjourned the meeting at 9:34 a.m. until Wednesday, January 16th.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 16, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Pending Fee Rules:	
Docket Nos. 38-0406-1202 38-0407-1202 38-0408-1202	Continuation of Rules for the Department of Administration from 1/14/13 Committee Meeting. Page 7 Page 21 Page 31	Monica Hopkins, American Civil Liberties Union of Idaho
		Teresa Luna, Director, Dept. of Administration
Docket No. 03-0101-1201	State Athletic Commission 03.01.01-Rules of the State Athletic Commission- Page 2	Roger Hales, Administrative Attorney
Docket No. 15-0603-1201	Office of the Governor Military Division-Bureau of Homeland Security 15.06.03-Public Safety Communications Rules (New Chapter)- Page 12	Steve Steiner, Bureau Chief-Public Safety Rules, Idaho Bureau of Homeland Security
	Pending Rules:	
Docket No. 54-0301-1201	Office of the State Treasurer 54.03.01-Idaho Unclaimed Property Administrative Rules- Page 78	Cozette Walters, Administrator, Unclaimed Property

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 16, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the Committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** convened the Senate State Affairs Committee (Committee) meeting at 8:00 a.m. on Wednesday, January 16, 2013 with a quorum present.

Sarah Thomas, State Appellate Public Defender, provided a copy of the poverty guidelines to qualify for a public defender in response to a request from last meeting.

Chairman McKenzie announced that the Committee will continue to review the rules for the Department of Administration as presented by Director, Teresa Luna. As has been the practice of the Committee, public testimony will not be taken. However, there is a specific question for Monica Hopkins, Executive Director, American Civil Liberties Union (ACLU), relating to a lawsuit involving those rules and the statute. **Chairman McKenzie's** question was whether they are contending that the fees either exceed statutory or exceed constitutional authority which was one of the contentions in the ACLU's brief. **Ms. Hopkins** introduced and deferred her time to Richard Eppink, Legal Director, ACLU.

**CONTINUATION
OF RULES
REVIEW** Department of Administration (Department) – **Docket Nos. 38-0406-1202, 38-0407-1202 and 38-0408-1202**

Mr. Eppink stated that a hearing for a summary judgement is scheduled for February 26th before Judge Winmill in Federal Court in Boise. The rules, in the view of the ACLU, go far beyond the kind of government restrictions that are necessary or appropriate when dealing with core constitutional rights. Government restriction of core freedoms such as the right to assemble and the right to speak should be taken extremely seriously by the Committee and the Senate. There are pages of rules with government restrictions. The justification is unclear and the poignant problems with the rules engenders confusion. The court will be concerned with the chilling of speech. These rules include restrictions specifically targeted at speech and assembly while carving out exceptions for activities not protected by the first amendment and by the Idaho constitution.

Senator Davis asked for an explanation of the items you believe this body should reject. **Mr. Eppink** commented that the ACLU does not see a need for these rules whatsoever, at least **Docket Nos. 0406 and 0408**. The definitions of events, exhibits and public use in **Docket No. 38-0408-1202** are where the rules outline different kinds of activities, some of which are singled out for regulation and some of which are not regulated in the same way. It is an extremely broad definition as is the definition of exhibit. **Mr. Eppink** continued to expand on the first amendment rights and explain why these rules are in opposition to those rights.

Senator Davis stated that the rules have a good definition of event and exhibit. The question is, does that definition in and of itself deter speech. It doesn't, it just defines it. Is it in the rules where the restrictions occur that the definition becomes constitutionally problematic? **Mr. Eppink** agreed that the definitions themselves would not be problematic. However, the purpose of the definitions is to do work later on in the rules and in Rules 200 and 201, you will see where event and exhibit are used to single out speech. Rule 200 authorizes events and exhibits only in locations and during hours that are set forth in these rules. Public uses are not subject to the same limitation on hours and location. Rule 201 limits exhibit and event duration but does not put those limits on public use.

Senator Davis asked if Mr. Eppink believes that the United States (US) Supreme Court interpretation says that there can never be restrictions on location or hours. **Mr. Eppink** responded that the existing US Supreme Court does say that the Idaho Legislature has discretion to limit the time, place and manner of speech. However, it must narrowly tailor those regulations to serve a substantial government interest and it must cure any substantial state interest interference. It must leave alternatives open and it must not use excessive discretion. These rules have problems with all of those requirements.

Senator Davis asked, why and where in the rules do time, place and manner cross the line constitutionally?

Mr. Eppink explained that the line is crossed when discriminating against speech. The substantial evidence necessary to meet the government's extraordinarily heavy burden to regulate speech around the statehouse without showing that there have been problems is not there. **Senator Davis** added another component to the issue, the seven day consecutive 24 hour time periods. **Mr. Eppink** said that they are now referring to Rule 201 which contains a duration limit. Idaho's interest, particularly in open spaces, has generally been limited to regulating competing uses so that everyone has the opportunity to hold an event. However, the rules are now limited to seven days. Due to the hour limitations, there could not be a 24 hour event or exhibit without sanctions. There is an ambiguity as to what consecutive could mean in Rule 201 considering the hour limitation in Rule 200.

Senator Hill stated that it was his understanding Mr. Eppink participated in a meeting Thursday evening in the Capitol. **Mr. Eppink** said that he did. The meeting was a Know Your Rights training put on by the ACLU. During that meeting, he covered several topics: a limited history of certain protests and demonstrations at the Capitol building; outside the Capitol building; and, on the Capitol Mall. Other presenters talked about how the legislature meets and what happens on the floor, what happens in committee, and what happens in lobbying meetings.

Mr. Eppink explained the Department's rules with the hope of dispelling some of the confusion against permits, activities adjacent to walls and windows, affixing posters and placards, using sidewalk chalk and other rules they had received questions about or were ambiguous. People were encouraged to contact the ACLU through their protester hotline in case they encountered discriminatory treatment with respect to these rules and with respect to bringing protester demonstrations into the Capitol.

Senator Hill asked if participants were encouraged to break rules so that they could be challenged. **Mr. Eppink** answered no, it would not be appropriate to do so. **Senator Hill** asked if, even though meetings held in the Capitol are to be open to anyone, was it communicated that preregistration was required to be admitted to that meeting or could anyone could walk in. **Mr. Eppink** deferred to Ms. Hopkins. **Ms. Hopkins** responded that they encouraged people to RSVP but it was a free meeting open to the public. Walk-ins had occurred at the Sunday meeting.

Senator Hill asked Mr. Eppink if people were told that they should schedule events in or around the Capitol and it was okay to intentionally mislead the scheduler regarding the real format and intent of the event. **Mr. Eppink** answered no.

Senator Hill asked if people were encouraged in any way to bring guns to the Capitol. **Mr. Eppink** answered that there had been a question at a prior event about firearm rights within the statehouse. That question was answered by another participant who was an advocate for bringing guns to the Capitol.

Senator Stennett asked what this line of questioning had to do with the rules. **Senator Hill** responded that the questions were to identify the motive for challenging the rules. Mr. Eppink has spent time describing what he thinks is inappropriate within and around the Capitol and the Capitol Mall. Since he is challenging the rules, it would be helpful to know what he thinks is appropriate and what he has told others.

Senator Hill pursued his line of questions. At any of the meetings, did you or anyone representing ACLU say something to the effect "it is not your fault that your weapon instills fear in others?" **Mr. Eppink** stated that he was not aware anyone said that.

Senator Werk asked if it would be an event if a group of people sharing a common theme that had a connotation of some cause gathered in one place, would the unplanned gathering be considered an event? **Mr. Eppink** stated he didn't know because of the ambiguity in these rules. **Senator Werk** said that if it is difficult to decide what an event is and then try to apply the definition to a specific instance in the rules, it would be difficult to enforce the rule and would lead to confusion of whether or not there is an event. **Mr. Eppink** stated that when an event can be anywhere between one person and a group, two immediate questions arise: 1) Why is there a need to regulate a single person with a sign? and, 2) How does a Capitol Mall security officer make the determination as to whether something is recreational or something else.

Chairman McKenzie asked if Mr. Eppink was contending that there are other restrictions on time, place and manner that exceed the constitutional limit? **Mr. Eppink** answered yes and volunteered to provide a copy of the briefing that has been filed in the litigation. **Docket No. 38-0408-1202**, Rule 400 state that permits for the Capitol steps have to be acquired five days in advance. Courts have said repeatedly that political speech has to be allowed to happen spontaneously. The courts have struck down waiting periods shorter than five days.

Senator Davis recalled that speech is not prohibited if you don't have a permit, it says that if you get a permit there are some additional benefits and burdens associated with it such as priority and sound amplification. The burden is a four hour limit. The principle purpose of the permit are the benefits. There is nothing in the rules that prohibits non permitted assembly. **Mr. Eppink** agreed but this illustrates a narrow tailoring problem. The reservation system provides benefits, it does not serve any government interest in regulating competing uses.

Chairman McKenzie asked if there were additional comments from Ms. Luna or questions from the Committee. **Senator Davis** asked if Julie Weaver, Deputy Attorney General, could speak to the constitutional concerns that have been expressed. **Ms. Weaver** deferred to Ms. Luna.

Ms. Luna said that these rules are reflective of policies and guidelines that have been used for a long time as well as the rules from 1992. Since these rules were implemented in April 2012, they have not denied permits and they have not closed down free speech. Law required that rules be promulgated within 30 days and the Department met that requirement to the best of their ability.

The event and exhibit definitions are consistent with other states definitions. They are there for a permitting process that has been in place for a number of years. If someone wanted to stand on the steps every day with a sign, if the steps are not being used, they are more than welcome to do so. They will not issue a permit for more than seven days in a row for the same group. The Department is there to serve and to make sure everyone has an opportunity to be heard and with that, **Ms. Luna** stood for questions.

Senator Fulcher referred to page 43, Rule 400, in the Pending Rules Book. Subsection 02 restricts the issuance of permits to the Jefferson Street steps. Why isolate that area? **Ms. Luna** explained that the permits are for business hours only although all the steps are open from 6:00 a.m. through 11:59 p.m. every day. **Senator Fulcher** asked why the same rules do not apply to all the Capitol steps. **Ms. Luna** answered that people can use those steps, they just don't permit them. Traditionally, all permitted activities have been on the Jefferson steps.

Senator Hill referred to Rule 202 on page 39 that "no person shall place items on, sit, or stand on stairways other than the Jefferson Street steps." What purposes can the steps be used for? **Ms. Weaver** answered that those steps remain clear for entering and exiting the Capitol.

Senator Werk restated his question on the connotation of a group with a single theme versus a group that has no connotation – is one an event and the other not? **Ms. Luna** explained that the rules are broad but allow some measure of management.

Senator Werk asked how the security personnel are trained to recognize the difference between an event and public use. **Ms. Luna** answered that they try to differentiate between public use (specific purpose) and pedestrian use (recreational use). **Ms. Luna** deferred to Adrian Rice, Security. **Ms. Rice** said that security is provided 24/7. Security officers are trained for routine activities and procedures. If questions arise, the attorneys are contacted to provide interpretation and clarification.

Senator Werk asked Ms. Luna about the concrete pad in front of the Jefferson steps that extends to the street. Is this considered Capitol property or Ada County Highway District (ACHD) property? When people gather on the sidewalk and encroach on the concrete pad in front of the steps, are they creating an event at the Capitol? Will some kind of marking identify where one area begins and the other ends? **Ms. Luna** said that Senator Werk described the area accurately. There could be an encroachment issue but only after the hour of midnight since that is when the steps shut down. There is no plan to make any area designations.

Senator Winder noted that, according to these rules, spontaneity would not be an issue unless there was a conflicting event. Is that true? **Ms. Luna** agreed. **Senator Winder** asked in what instance would a line of division be needed. **Ms. Luna** responded that they haven't had that type of use.

Senator Stennett asked why, if the policies and guidelines were already in place, are we looking at rules. **Ms. Luna** responded that H 693 required that the rules be promulgated by the Department within 30 days of signing by the Governor.

Senator Winder asked about hours and location of uses. Subsection e restricts the hours for the Jefferson steps from 6:00 a.m. through 11:59 p.m. What is the impact for the rest of the rules if that subsection should be stricken so the use could be 24 hours? **Ms. Weaver** stated that if the hours subsection was removed it would eliminate the maintenance and improvement section. Some things would be lost because other parts of the rules refer back to that section. **Senator Winder** observed that life savings issues and other issues would be struck. **Ms. Weaver** agreed.

Dennis Stevenson, Rules Administrator, clarified what would happen when striking the rule as far as references are concerned. A section may be rejected without affecting other sections even though there are references. Those corrections would be made.

Senator Werk said that life safety was included in the old guidelines and policies which the Department could fall back on if these rules were rejected. **Ms. Luna** responded that they could fall back on those but that doesn't give them any enforcement authority.

MOTION: **Senator Davis** moved to approve in total, **Docket No. 38-0407-1202** regarding the interior of State property and the Capitol Mall. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Davis** moved to approve **Docket No. 38-0408-1202** except to reject Rules 201, 313 and 302 within the docket except for Rule 302.e which would be adopted. (Note: a clerical correction was made to this motion in the January 18th minutes.) **Senator Hill** seconded the motion.

Chairman McKenzie called for discussion.

Senator Davis stated it was not fair to the Department to not allow them the time needed to go through the negotiated rule making process. The Department should revisit the three sections that were rejected to encourage free exercise of speech rights.

Senator Hill stated he also had some problems with Rule Nos. 302.02, 313 and 201.

SUBSTITUTE MOTION: Senator Werk was troubled by the definitions and offered a substitute motion. **Senator Werk** moved to reject **Docket No. 38-0408-1202** in total. **Senator Stennett** seconded the motion.

Senator Werk stated that the flow of the definitions to the rules was difficult to interpret. While the Department is in the position that they must write rules, they must negotiate with others and reach agreement. Meantime, they can return to the policies and guidelines that have been used in the past.

Senator Davis commended the Department for their work. The problem isn't the definitions, it is the application of the definitions. He believes that the Department will revisit those definitions and let the process go forward.

The substitute motion failed by **voice vote**.

ORIGINAL MOTION: **Chairman McKenzie** stated that the original motion is now before the Committee.

Senator Hill noted his appreciation to the Department and assured them that rejecting a portion of the rules in no way reflects on the confidence he has in the Department.

Senator Stennett commented on the motion and meant no disrespect to the Department for the work they have done.

Senator Werk added his compliments and stated his concerns.

Senator Winder noted that the idea of free speech and the right to demonstrate is important and that is the reason the Committee has raised some concerns. These rules will apply to everyone and does not single out any specific group or philosophy.

The motion carried by **voice vote**.

MOTION: **Senator Davis** moved to adopt **Docket No. 38-0406-1202** but reject Rule Nos. 201,313 and 302 within the docket except for Rule 302.e which would be approved. (Note: a clerical correction was made to this motion in the January 18th minutes.) **Senator Hill** seconded the motion.

SUBSTITUTE MOTION: **Senator Stennett** moved to reject **Docket No. 38-0406-1202** in its entirety. **Senator Werk** seconded the motion. The substitute motion was defeated by **voice vote**.

ORIGINAL MOTION: **Chairman McKenzie** stated that the original motion was now before the Committee and asked for further discussion.

The motion carried by **voice vote**.

DOCKET NO. 03-0101-1201 **03.01.01 - Pending Fee Rules Governing the State Athletic Commission**

Chairman McKenzie introduced Roger Hales to speak on behalf of The Bureau of Occupational Licenses and the Athletic Commission (Commission).

Roger Hales introduced Tom Katsilometes, Chairman of the Board, who was in the audience. **Mr. Hales** explained that the Commission regulates boxing, the Mixed Martial Arts (MMA) and wrestling in both the professional and amateur arenas. It was created to protect the public, specifically the minors involved in these events. **Mr. Hales** outlined the duties and some history of the Commission.

The rules being brought forward reflect a continuing effort to protect the fighters. Additionally, it addresses the issue with the Commission in regards to its financing and its effort to be self supporting. The increase in fees that the legislature granted to the Commission last year has helped to somewhat stabilize its finances even though the full impact has not yet been felt. Last year at this time, the Commission outspent revenues by \$25,000. As of December 31, 2012, the Commission is approximately \$1,500 in arrears.

Mr. Hales summarized the rules as follows: the requirements for male and female combatants age twelve and under are clarified; an additional rule was added requiring promoters to report event results and injuries; clarifying glove requirements; and, term of license and fees are stated to establish that there is no penalty for non-renewal. In addition, the sanctioning event permit fee is being increased from \$200 per event to \$1,000 per event to offset the Commission's expenses (Rule 104.01.e). **Senator Fulcher** related that the need to write rules for male and female combatants under 12 years of age stood out. Is there any guidelines as to the levels of intensity for those activities for that age group and do they have to have parental consent? **Mr. Hales** stated that if you are involved in a combat sport you are obligated to get a license and there is no limitation on age for either professionals and amateurs. That age group is not involved in MMA but in sports like karate and kickboxing. From a legal standpoint there must be legal guardian or parental consent but he could not positively answer that question.

Senator Lodge stated her concern for the under 12 age group. Are any of these kids performing for financial gain for someone? **Mr. Hales** answered that these are mostly amateur organized events; it is a nonprofit scenario. **Senator Lodge** inquired about the police leagues; are they involved in boxing? **Mr. Hales** said that there are certain types of associations that are exempt as it relates to boxing. There are young individuals involved in boxing.

Mr. Hales continued through the rules explaining each of the changes.

The Commission has made some progress toward financial independence. One method was taxing the pay-per-view. There are two ways the Commission gets money; license fees and a percentage of the gate. There has been twelve events during the first six months of this year compared to 16 for the previous full year. If the revenue continues as it has, the Commission would generate about \$50,000.

A significant problem at the Commission is that they are \$180,000 in the red. It is not just a matter of stabilization, it is also a matter of paying back the money that other boards and the bureau have lent to them. How do they generate the revenue and who bears the burden? This can come from the promoters since they are the ones making money from the events.

Senator Winder asked if the Commission used the negotiated rule process. **Mr. Hales** responded that they did not.

Senator Stennett referred to Rule 107.08. Are females 12 and above always subjected to breast and pelvic examinations and how invasive is the exam? **Mr. Hales** responded that by implication, that is true. **Mr. Hales** said there is a ring doctor involved who interviews and examines the participant. It is always done in a closed locker room setting and could include the parents. **Mr. Hales** doesn't believe it is an invasive exam; it is more in the nature of a discussion and over the clothes exam but the doctor does have some discretion. **Senator Stennett** asked how frequently the pregnancy test would be given. **Mr. Hales** said that would be done by the doctor for every event they participated in.

Senator Lodge asked if the exam could be done and certified by a private physician. **Mr. Hales** said it could.

Chairman McKenzie extended his appreciation for the Commission's attempt at reducing the price for the combatants. The financial situation is being handled appropriately and hopefully will be in the black soon.

MOTION:

Senator Fulcher moved to adopt **Docket No. 03-0101-0201**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
15-0603-1201**

**15.06.03 - Pending Fee Rules for the Bureau of Homeland Security
Public Safety Communications Rules (New Chapter)**

Steve Steiner, Chief, Bureau of Public Safety, Idaho Bureau of Homeland Security, stated that they are seeking the Committee's approval to implement a set of rules and gave an overview of what the Bureau of Public Safety does and why they need these rules. (A copy of the full presentation is included with the minutes as part of the record.) The primary role is to support all emergency communications for the Idaho Military Division based with local state and federal partners. They also provide emergency communication support to state agencies who utilize radio systems and other means of communications.

Currently, they do not have rules in the system even though they have been providing these services since the 1950s. After being moved about to several different agencies, they are now under the Idaho Bureau of Homeland Security. There has not been a fee increase in over 23 years. New technology is available that local and federal governments are asking them to provide services for. There is no fee structure to properly bill them for those services. The rules will allow them to grow so that they can meet the demands of the people they serve. They receive no general funds, they only collect fees from each of their users and those fees go into the salaries and infrastructure across the State.

Senator Fulcher asked what the percentage increase of the overall revenue stream will be if these rules are adopted. **Mr. Hales** stated that they expect between three and seven percent. Some agencies would see an increase and others might see some savings. The difference is the kind of technology the agencies are moving to. They are not in the business for profit, they just have a fee structure to enable them to pay for staff and upkeep of the locations where stations are located throughout the state.

Chairman McKenzie called for questions from the Committee.

MOTION: **Senator Winder** moved to adopt **Docket No. 18-0603-1201**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 54-0301-1201 **54.03.01 - Pending Rules for the Office of the State Treasurer - Idaho Unclaimed Property Administration**
Chairman McKenzie introduced Cozette Walters, Administrator, to present the rules.

Ms. Walters offered an explanation for each of the changes within the rules. All changes were items of clarification.

MOTION: **Senator Winder** moved to adopt **Docket No. 54-0301-1201**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** thanked the Committee and the presenters for their patience. The meeting adjourned at 10:32 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 18, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS21734</u>	A Concurrent Resolution to recognize Power County on its 100th anniversary.	Senator Jim Guthrie
GUBERNATORIAL APPOINTMENT	The appointment of Brandon D. Woolf to the Office of State Controller as State Controller	Brandon D. Woolf
Docket No. <u>31-4101-1201</u>	Pending Rules: Department of Public Utilities Commission 31.41.01-Telephone Customer Relations Rules- Page 2	Paul Kjellander, President, Public Utilities Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 18, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. on Friday, January 18, 2013, with a quorum present.

UNANIMOUS CONSENT REQUEST: **Chairman McKenzie** presented a unanimous consent request to make a clerical correction to a motion made at the January 16, 2013 meeting for the rules of the Department of Administration. The motion was to accept **Docket No. 38-0408-1202** but rejecting Rule Nos. 201, 313 and to reject Rule 302 except for Subsection e. The reference should have been to Rule 302.01.e.

A similar motion was made on **Docket No. 38-0406-1202** which was accepted except for Rule Nos. 201, 313 and 302.e. Rule Nos. 201 and 313 are rejected in **Docket Nos. 0406 and 0408** but **Docket 0406.302** does not have a Subsection e. The motion should have been for **Docket 0406.302.04**. Subsection 04 refers to maintenance and improvements which are substantially similar to **Docket 0408.302.01.e**.

The changes are significant enough to bring them to the Committee's attention but they are not substantively enough to change the motion and the debate that we had and, unless there is an objection, by unanimous consent, the minutes will reflect that these corrections be made. No objections were heard.

RS 21734 **Concurrent Resolution to Recognize Power County on its 100th Anniversary**
Senator Guthrie stated the purpose of **RS 21734** is to recognize Power County's 100th anniversary. Power County was created by an act of the legislature in 1913 and was given their name because of the hydroelectric plant development at American Falls on the Snake River. The town had to be moved to create the 160 acre reservoir that holds 1.7 million acre feet of water serving 500,000 acres, generating 112,420 kilowatts of power and providing recreation opportunities. Their 100th anniversary celebration will be held on February 16, 2013.

MOTION: **Senator Davis** moved to send **RS 21734** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced **Brandon D. Woolf** who was appearing before the committee for confirmation of his appointment as Controller to the Office of State Controller (Controller's Office). **Mr. Woolf** stated that he has been at the Controller's Office since 1997 as an intern and then progressed to a training specialist in the payroll division. The State Controller's role is to be a good fiscal steward of the citizen's money. **Mr. Woolf's** vision for the Controller's Office is to be fiscally responsible and continue to move forward with the same business procedures including great customer service for the agencies and state employees.

Senator Davis asked what educational background do you have for the performance of your responsibilities and do you plan on seeking further educational opportunities? **Mr. Woolf** stated that he had grown up on a dairy farm where he learned to work hard and maintain integrity and ethics from an early age. He believed that his Master of Business Administration (MBA) degree and 15 years experience in the Controller's Office had prepared him for the position of Controller. **Senator Davis** asked **Mr. Woolf** if he believed that he would need to return to school to augment his skills for the performance of his duties or did he believe his MBA coupled with his on the job experience will be sufficient to perform his duties. **Mr. Woolf** explained that he thought his MBA coupled with his experience in various positions in the Controller's Office would be sufficient to perform the duties of the position of State Controller.

Chairman McKenzie thanked **Mr. Woolf** for his attendance and advised him that the committee would vote on the confirmation at their next meeting.

Chairman McKenzie introduced Paul Kjellander, President of the Idaho Public Utilities Commission (Commission) to present the pending rules.

DOCKET NO.
31-4101-1201

31.41.01-Rules Governing Telephone Customer Relations.

Paul Kjellander explained that the deregulation of the telecommunication sector began in 1988. Since that time, there has been a tremendous evolution in technology and advancement in the telecommunication industry. In the last decade the legislature took another step to deregulate prices for the previously regulated monopolies within the State of Idaho. This sent a significant policy statement that the legislature believed that there was sufficient competition to warrant price deregulation.

The rules that relate to the telephone industry in the State are part of the legacy regulation. CenturyLink proposed to seek a waiver for Rule 502 that said a telephone company that is regulated has to restore its outages within a 24 hour period. In the event those standards couldn't be met, the customer would receive up to one month's service. Initially, CenturyLink had asked for a complete waiver of that rule. Through the negotiated rulemaking process they came up with a settlement. The Commission accepted the settlement but refused to accept the entire waiver. Instead, the Commission took a settlement which changed the response time to 48 hours for the restoration of service and the customer credit would go away. This now gives them a competitive playing field in the environment of the industry. There has been a huge shift in the numbers of landlines going from over 700,000 to today's 400,000. The packaging within the industry include landlines. Wireless has had a significant impact on the shifting changes of technology and the way in which customers use telephony today.

The intent behind the rule was to try to create a competitive environment for the formally price regulated telephone companies recognizing the competition that exists in the state and honoring the direction the legislature went when they initially said the price regulation was necessary for the companies because of the competition. None of the other providers of telephone services have to comply with any of these rules.

Senator Davis asked **Mr. Kjellander** to clarify the Commission's reasoning for promulgating this rule. **Mr. Kjellander** answered that telephony has changed dramatically. When you start to look at creating a level playing field you see legacy regulations that apply only to what was previously the regulated telephone monopoly. The other carriers that come in and compete in the marketplace for customers do not have to comply with the same rules and regulations. The perspective of the Commission, in terms of accepting the settlement, was to recognize that customer service is still an important component. In today's environment if a customer does not like the service that is provided they can move to another carrier. The legislature ruling that price deregulation should exist because of that competition is an overreaching policy statement. **Senator Davis** asked why Rule 502.01.a as originally written, was not rejected. **Mr. Kjellander** explained that the main objection was the forced requirement within the rules to make a payment to the customer if service was not restored in the allotted time. When the settlement came back and extended the length of time but eliminated the payment to customers, CenturyLink thought that was reasonable.

Senator Werk pointed out that there are some changes under the compliance standard. The old rule required that at least 90 percent of the out of service trouble complaints would be cleared. Under this new rule, that percentage would drop to 80 percent. If there is a standard here but no tracking mechanism, what use is the standard? **Mr. Kjellander** clarified that in years past the 90 percent level was the threshold. There has not been an out of compliance complaint invoked in the last 25 years. A provider has to be doing very poorly to hit the 80 percent trigger. The 90 percent as a competitive component can be used against a business in a negative way, again to try to level the playing field.

Senator Stennett asked for clarification on the drop in landline usage from 700,000 to 400,000. Isn't the elderly the greater percentage of the population who still have landlines? These individuals need basic public and health and welfare services. She questioned the advisability of the Commission moving from 24 to 48 hours for restoration of service without any compensation to the customer. If the providers are not held to a financial constraint, why the shift from 24 to 48 hours? **Mr. Kjellander** stated that it was part of the negotiated settlement. Instead of having to fight over the 24 versus 48 time frame it still allowed the ability to put pressure on the regulated utility. The providers do not want to lose customers, hence it benefits them to restore the service as quickly as possible.

Senator Hill asked if a telephone provider does not restore service how does the Commission address the matter? **Mr. Kjellander** answered that the loss of customers is the biggest stimulus for the providers to restore services as quickly as possible. The goal of the Commission is to have compliance rather than taking punitive action against a provider.

Chairman McKenzie informed the audience that typically it is not the committee's practice to take public testimony on rule dockets. The individuals signed up to speak were: Josh Lunn, representing himself, Tina Wilson representing Western Alliance for Economic Development and Peggy Munson, representing American Association of Retired Persons (AARP); all opposed to the rule change. Ed Lodge, representing Century Link, was in favor of the rule change.

Senator Werk asked that AARP be allowed to speak to give their perspective on this rule since there seemed to be a degree of generational issues in this rulemaking. **Peggy Munson**, AARP, stated that she represented 178,000 members across the State of Idaho. They help people 50 and over to make choices and be independent which is beneficial to them and society. The membership is in opposition to **Docket 31-4101-1201** regarding the Telephone Customer Relation's Rules.

AARP opposes the pending rule because they believe the rule would unnecessarily erode important consumer protections, leaving the State's most vulnerable citizens with less recourse if the quality of basic telephone service deteriorates. Telephone landlines are lifelines for elderly Idahoans, especially in the rural communities. The pendants of the medical alert and life status systems use landlines to operate alert systems in homes.

Senator Hill asked if AARP members expressed a frustration that their service was unavailable and had anyone collected the one month rebate on their telephone bill because the provider did not get it repaired in the allotted time. **Ms. Munson** replied that none of the members have mentioned an outage of this nature. What they have mentioned is the value of their landline. **Senator Hill** asked then why the suspicion that the change in this rule would alter the quality of the service they have been receiving? **Ms. Munson** responded that extending the time of repair service from 24 to 48 hours is their main concern.

Senator Winder asked if the language in Rule 502.01.a goes back to the language of the old rules, will that eliminate the majority of your member's concerns? **Ms. Munson** stated that going back to the old language would eliminate their concerns.

Senator Lodge stated, pursuant to rules of the Senate 39 (H), of the Idaho State legislature, she has a conflict but still wishes to vote on **Docket No. 31-4101-1201**.

MOTION:

Senator Winder moved to approve **Docket No. 31-4101-1201** rejecting Rule 502.01.a. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:10 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

2nd AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 21, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	The appointment of Brandon D. Woolf to State Controller	
GUBERNATORIAL APPOINTMENT	The appointment of Kevin Settles of Boise, Idaho, to the Idaho Commission on Human Rights.	Kevin Settles
RS21753	Relating to the Initiative and Referendum Elections to provide for the revisions of certain petitions, signature sheets, and number of required signatures, and to make a technical correction.	Russ Hendricks, ID Farm Bureau Federation
RS21762	Relating to the County Option Kitchen and Table Wine Act to provide for the revision of the size of a container of wine a distributor or importer is allowed to purchase, receive or sell.	Roger Batt, Idaho Grape and Wine Producers
52-0103-1201	Pending Fee Rule: <u>Idaho State Lottery</u> 52.01.03 - Rules Governing Operations - Page 22	Jeff Anderson, Exec. Dir., Idaho State Lottery
52-0102-1201	Pending Rule: <u>Idaho State Lottery</u> 52.01.02 - Gaming Rules - Page 47	Jeff Anderson, Exec. Dir., Idaho State Lottery
52-0103-1202 52-0103-1203	Pending Rules: <u>Idaho State Lottery</u> 52.01.03 - Rules Governing Operations Page 51 Page 68	Jeff Anderson, Exec. Dir., Idaho State Lottery

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 21, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. on Friday, January 21, 2013 with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** called for a vote on the recommendation for confirmation of Brandon Woolf as Idaho State Controller.

MOTION: **Senator Davis** moved to send the gubernatorial appointment of Brandon Woolf as State Controller to the floor with the recommendation that it be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** welcomed Kevin Settles who was appointed to the Human Rights Commission.

Mr. Settles explained that he is an owner/operator of the Bardenay Restaurants and Distilleries. He has been politically active in areas that directly affect his facilities and employees. He has three operating principles: 1) Treat employees well; 2) Provide good value to customers; and, 3) Be a good member of the community. When considering this appointment he looked at the diversity of the 170 employees working for their company and decided that this assignment fit in his arena. There may be some controversial things but it would be well worth his time.

Senator Hill asked what comes to Mr. Settles' mind when he hears the term "human rights" and what are those rights? What do you think may be controversial? **Mr. Settles** stated that human rights means that he should treat everyone as he expects to be treated. As for controversial issues, "Add the Words" was controversial last year. Also, age discrimination in his industry is hard because, as people age, it is harder to keep up the pace. He would better understand how the law applies to age.

Chairman McKenzie asked if any meetings have been held since his appointment and when is the next meeting scheduled? **Mr. Settles** said February 2nd will be the next meeting. He has not had an opportunity to attend a meeting.

Chairman McKenzie thanked Mr. Settles for his past community service and willingness to serve on this commission. The Committee will vote at the next meeting.

RS 21753 **Relating to the Initiative and Referendum Elections** presented by Russ Hendricks, representing the Idaho Farm Bureau Federation.

Mr. Hendricks stated that **RS 21753** seeks to ensure that there is broad support for an issue before it is placed on the ballot. Current state law requires that six percent of Idaho's registered voters sign a petition in order to get an issue on the ballot. In 1997 a bill was passed that said six percent of the registered voters in 22 counties must sign. Subsequently, that law was overturned by the Federal Court and upheld by the Ninth Circuit Court of Appeals because it did not follow the one man, one vote rule so it was held to be unconstitutional. However, in a writing for the majority, it was stated that the same end could be achieved by using legislative districts as a requirement rather than counties. **RS 21753** requires six percent of the registered voters in 22 legislative districts with an overall six percent of the registered voters statewide to qualify an issue for the ballot.

Senator Winder asked if this would take away the ability to take action on a regional legislative issue without going statewide. **Mr. Hendricks** said that it would.

Senator Davis referred to the Statement of Purpose (SOP), fifth paragraph and asked Chairman McKenzie if the Ninth Circuit Court of Appeals focused on the interpretation of the Idaho Constitution or was it relying on a federal analysis of one man, one vote? **Chairman McKenzie** will review his copy of that case. If it is more of a federal analysis, we may want to change the language in the SOP.

Senator Hill stated his concern with the length of the SOP. The SOP should state what the bill does and not go into the reasons behind it.

Senator Werk questioned the existence of a problem. **Mr. Hendricks** explained that currently, as well as in 1997 when the original legislation was passed and later overturned, the required six percent of the registered voters in the state could be met in the Treasure Valley. There was not an opportunity for people across the state to participate in the process. **RS 21753** ensures that there is widespread support across the state prior to qualifying an issue for the ballot.

Senator Winder followed up on the wording of the SOP; would Russ be willing to change it and must it be changed before going for print? **Mr. Hendricks** stated that they would be more than happy to change it.

MOTION:

Senator Lodge moved to send **RS 21753** to print. **Senator Fulcher** seconded the motion.

Senator Werk stated he would vote to print the RS. However, it is making it more difficult for people to have a say when elections come around. He will need something compelling to determine if there has been abuse of the system and if there are issues to be resolved.

The motion carried by **voice vote**.

RS 21762

Relating to the County Option Kitchen and Table Wine Act to provide for the revision of the size of a container of wine that a distributor or importer is allowed to purchase, receive or sell.

Roger Batt, representing the Idaho Grape and Wine Producers, said that **RS 21762** amends current law to increase the maximum wine container size from a one gallon container to a 15 gallon container without having to receive permission from the Director of the Idaho State Police.

The industry is requesting this change for the following reasons:

- The current language is archaic.
- The Idaho wine industry is growing.
- Wineries are receiving numerous requests for larger containers.
- Some wineries are selling five gallon containers but must obtain permission to do so each time a sale over a one gallon container is made.
- Other states are selling wines in excess of one gallon containers giving them a competitive edge over Idaho wineries.
- There is no fiscal impact to the General Fund.
- The industry will likely see an increase in revenues to business owners.

Mr. Batt asked for support of **RS 21762** and stood for questions.

MOTION:

Senator Fulcher moved to send **RS 21762** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PENDING RULES:

Chairman McKenzie introduced Jeff Anderson, Executive Director, Idaho State Lottery, to present the pending rules.

Mr. Anderson introduced Becky Schroeder, Chief Operating Officer, Idaho Lottery; Zeke Chemodurow, General Manager, Intralot; and Tim Davis, the Attorney General's Office, to answer technical questions.

**DOCKET NO.
52-0103-1201**

Pending Fee Rule: Idaho State Lottery 52.01.03 - Rules Governing Operations; pages 22-31 of the 2013 Pending Fee Rule book.

Mr. Anderson requested that the Committee approve the Idaho State Lottery (Lottery) negotiated pending fee rule that authorizes the Lottery to collect a cost recovery fee for the convenience of using a pin-protected debit card in the vending machines. Currently those machines accept only cash. There were no comments received during the negotiated rulemaking.

Last year, the Federal Reserve reported that cash transactions are no longer the majority method of payment. Electronic payments now account for over half of the transactions incurring additional costs (transaction fees). Vending machines represent 20 percent of the instant ticket sales and four percent of the draw game sales; nearly \$26 million. Many retailers allow for various forms of payment at the counter and other state agencies capture similar cost recovery fees for electronic forms of payment.

The convenience fee described on page 31 restricts the Lottery from capturing usage fees from third party payment processors. Approval of the rule will provide greater customer service and enhance dividends to the citizens by reducing costs for payment processing.

Senator Winder asked if only debit cards could be used and not credit cards. **Mr. Anderson** said that is correct.

Senator Hill inquired if this allowed debit cards to be used where they couldn't be used in the past or if it just allow that a fee be charged for using them. Does this expand the use of debit cards for purposes of the lottery? **Mr. Anderson** answered that they could use debit cards according to the current rule but they choose not too because of the transaction costs.

Senator Davis observed that Subsection 23 states "The Lottery may collect ... a fee" in an amount decided by the Lottery. Normally, if there is a fee, it is an amount certain. Why is this good public policy? **Mr. Anderson** responded that they did not state the exact amount of the fee since it is not meant to be a revenue stream for the Lottery, only to recover the cost of the transactions. According to current transaction schedules, the cost is determined by the dollar amount and could be anywhere between \$.30 and \$.70. They chose to start with \$.50 and do an audit each year then make adjustments. **Senator Davis** said that those numbers are not in this fee rule. **Mr. Anderson** agreed. With the revolving federal legislation as it relates to restrictions on transaction fees, it is very difficult to state the exact amount that should be charged. The only goal is to capture the amount of the fee that a third party processor charges. **Senator Davis** observed that is not what the rule says. **Mr. Anderson** stated that they are asking for the Lottery Commission to be given the authority to set the cost recovery fee. **Senator Davis** said "nor does it say it is limited to an exact amount ... " **Mr. Anderson** said that is correct because they wanted the flexibility to adjust each year as fees go up or down.

Senator Lodge asked if they would accept Electronic Benefit Transfer (EBT) cards that are also debit cards. **Mr. Anderson** replied "absolutely not."

Senator Fulcher commented that there is no framework for the fees and that is a problem. **Mr. Anderson** explained that this does not give the director the authority to set the fee, it comes through the Lottery Commission during public meetings.

**DOCKET NO.
52-0102-1201**

Pending Rule: Idaho State Lottery 52.01.02 - Gaming Rules;
pages 47-50 of the 2013 Pending Rule book.

Mr. Anderson requested the approval of the pending rule to adjust the allowable maximum expense for licensed charitable games so they would conform to the legislation that was passed during the last session. S 1286 amended Idaho Codes §§ 67- 7709 and 67-7710 for Bingos and Raffles. This request came from operators through the Bingo Raffle Advisory Board and through the Idaho State Lottery Commission (Commission). The 20 percent to charity would remain the same for Bingo games but allow operators to pay out larger percentages in prizes. Many of the operators in both Bingo and Raffle charitable games have been struggling with rising costs for printing, marketing, labor, rent, etc. The change would allow them some relief.

Senator Davis asked if the only thing this does is to restate the percentages that are in S 1286. **Mr. Anderson** said that is correct.

**DOCKET NO.
52-0103-1202**

Pending Rule: Idaho State Lottery 52.01.03 - Rules Covering Operations;
pages 51-67 of the 2013 Pending Rule book.

This rule does two things:

1. Clarifies how multiple winners claiming one ticket may divide their winnings.

Pages 57-58 relative to claiming prizes dictates that winners must state their percentage of the prize when there are multiple claimants prior to the Lottery processing the claim. This resolves an issue of a claimant changing their payout percentage when they discover there is a welfare or tax liability due the state. This change was recommended by the Attorney General.

2. Addresses technology changes for in-state drawings relative to the need for draw device inspections.

Page 60 required that the old ball machines had to be inspected and maintained prior to each drawing. Those devices are not used anymore. The current method is a random number generator computer that requires no physical inspection. It

provides for greater security, integrity and detailed audit trails. These are audited and reviewed after each drawing.

Senator Davis referred back to S 1286 where it stated a "maximum of 18 percent of gross revenues may be used for administrative expenses." Your rule says 20 percent. **Mr. Anderson** clarified that there are two issues: One is for Bingo which limits expenses to 18 percent and the other is for raffles which are limited to 20 percent.

Senator Davis asked for further explanation of the Attorney General's request.

Mr. Anderson said current rule calls for a request and release form. This rule clarifies that multiple winners must fill out a claim form stating what their expected share is prior to the lottery processing the claim so if there is an offset for taxes or health and welfare, it can be collected and transferred to the appropriate agency.

Senator Hill asked if multiple winners came in and disagreed about the percentage, how is that dealt with? **Mr. Anderson** responded that they would disperse the winnings in equal shares.

**DOCKET NO.
52-0103-1203**

Pending Rule: Idaho State Lottery 52.01.03 - Rules Covering Operations; pages 51-67 of the 2013 Pending Rule book.

The Idaho State Lottery Commission is requesting the approval of the negotiated pending rule that allows for instant ticket games to be played through dispensing devices that currently offer only draw games such as Power Ball and Mega Millions. The only comments came from a gaming system vender and they were considered.

The games restrict the play styles to that of an instant ticket game as currently provided in rule. There are several provisions that the tickets must include. The games must have a finite pool of tickets, a predetermined and guaranteed prize structure and the tickets must be dispensed in sequence from a retailer based device. The games create competition among the venders, they are secure, they operate on a closed system platform and will only be offered in social situations.

Mr. Anderson emphasized that wagers will not be taken over the internet and this does not authorize internet gaming. **Senator Davis** asked for a simple, detailed explanation of what is occurring now and what changes will be made.

Mr. Anderson explained how the operation functions at this time and what would happen if these rules were implemented. In answer to further questions, he went on to explain that these are not like tribal video gaming machines. They are scratch games played on a screen in electronic form instead of being scratched on a piece of paper.

Senator Werk asked if there were machines of this type located in bars or bingo halls where lottery games are allowed. **Mr. Anderson** stated that there are none that offer instant ticket games as described here but electronic touch tab games are offered. **Senator Werk** asked what the operative difference is between a scratch game and a pull tab game. **Mr. Anderson** explained that they offer three types of games: draw games where numbers are picked and they have a predesignated draw time, instant scratch tickets that have a finite pool of tickets in a game and pull tab games where a tab is pulled. **Senator Werk** asked if an electronic scratch ticket game would be added under this rule. Would he see any difference between the scratch or pull tab electronic games? **Mr. Anderson** said that there would be a profound difference. The touch tab machines mimic the paper games that are available in those locations. The instant ticket is quite different. There are many different games within the arena of the scratch ticket games. The scratch area on the electronic screen would be a touch type device.

Chairman McKenzie noted that there is a pilot program in place for an electronic touch tab dispensing device; about 313 of these devices are in bars at this time. Do those currently accept debit transactions and if not, would the pending fee rule change the intent of the Lottery Commission to allow debit cards as well as cash to play those electronic games? **Mr. Anderson** did not envision debit cards being available for touch tab dispensing devices. They could be made available in the multi purpose devices in addition to the regular big box vending machines.

Senator Hill stated that approving this rule would allow for online terminals to be placed in retail outlets which are defined as businesses authorized by the Lottery to sell online tickets. The discretion of where these will be placed is completely within the hands of the Lottery. If we approve this rule, we are expanding what online gambling is and where it is located. Is that correct? **Mr. Anderson** suggested that there may be confusion with the terminology that is used when we say "online." What that means is a highly secured, closed system terminal that connects to the central gaming system for the purpose of selling games to the public. Right now that is draw games (power ball, mega millions, etc.). What is being proposed is to have a rule that restricts the type of instant ticket game that can be played on a terminal at a retail location. It is not expanding but is restricting the games that can be played on the online terminal to now include highly secure instant tickets as well as draw games.

Senator Siddoway thought it looked like the rules allow for a casino type atmosphere which isn't the case today. **Mr. Anderson** said he would not characterize it that way. These devices exist in locations selling draw games already. These do not mimic casino games.

Senator Siddoway asked what type of social setting the rules would allow versus what is in place now. **Mr. Anderson** stated that the social setting are bingo halls and age controlled bars and taverns. Typically, there are no more than one to three devices throughout the establishment depending on its size. Two vending machines in an area is not like the multiple slot machines in a casino. These are instant ticket games that are currently on the market in paper form that would be made available on devices that are already placed in locations that are currently selling only draw games. The type of games would be restricted.

Senator Siddoway asked what regulates the number of machines in an area. **Mr. Anderson** stated it is determined by market demand.

Senator Lodge asked for a definition for a social situation. **Mr. Anderson** replied that there is a policy the commission follows but not a definition in the rules. These devices were designed and delivered initially to relieve pressure when jackpots were large to help move customers through the lines. It was a self service terminal for the draw games. **Senator Lodge** said that bowling alleys, pool halls and private clubs could be considered social situations. **Mr. Anderson** said they could be but the devices must be in age restricted locations.

Senator Winder asked if there was a place to see a demonstration of these terminals. **Mr. Chemodurow** answered that those devices are in several locations i.e., the Crescent Bar. He will provide a list of locations.

Senator Werk asked if these devices would be "screaming" or "quiet and enticing." **Mr. Anderson** responded that they are programmed based on location.

Senator Hill stated that the age restricted environment is a policy of the Lottery Commission but isn't in the rules; is that correct? **Mr. Anderson** agreed.

Chairman McKenzie indicated that Mike Duff, President, United Families Idaho, signed up to testify. His written testimony in opposition to the rules will be accepted instead.

Senator Stennett suggested that it would be helpful to have a demonstration. **Mr. Anderson** said he would be happy to do that.

Senator Davis asked if the rules were going to be voted on at this meeting. **Chairman McKenzie** would defer if it was the desire of the Committee.

Senator Davis could not find the administrative 20 percent for the raffle in **S 1286**. Is it in that bill or in another code section? **Mr. Anderson** answered that the raffle is addressed in 67-7710 and states that 80 percent goes to non profit organizations. The remaining 20 percent goes to administration. **Senator Davis** notes it was a math calculation.

Senator Fulcher commented that **Docket 52-0103-1203** should be held until they get more information or have a demonstration. **Chairman McKenzie** deferred the vote until Monday, January 28th.

MOTION: **Senator Davis** moved to reject **Docket No. 52-0103-1201** in the Pending Fee Rules. **Senator Werk** seconded the motion.

Senator Davis noted that it is contrary to how fee rules should be written. There is language in the descriptive part of the rule that should be incorporated into the body of the rule.

The motion carried by **voice vote**.

MOTION: **Senator Davis** moved to adopt **Docket Nos. 52-0102-1201** and **52-0103-1202**. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie stated that there would be a further hearing on **Docket No. 52-0103-1203** on Monday, January 28th.

ADJOURNED: Being no further business, **Chairman McKenzie** adjourned the meeting at 9:25 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 23, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	Kevin Settles to the Idaho Commission on Human Rights	
GUBERNATORIAL APPOINTMENT	The appointment of Mack A. Redford to the Public Utilities Commission.	
GUBERNATORIAL APPOINTMENT	The appointment of W. Craig Corbett to the Idaho Lottery Commission.	
RS21707	Relating to the Board of County Commissions to provide that any member of the Board of County Commissioners shall be elected from the district in which they reside.	Senator Durst
RS21701	Relating to Codifier and Technical Corrections to Idaho Code to provide for corrections due to multiple amendment conflicts in names found by the codifier and grammar and punctuation corrections identified by the Legislative Services staff.	Katharine Gerrity, Legislative Services

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 23, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED: Senator Davis

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** announced that the Committee was ready to take action on the appointment of Kevin Settles to the Idaho Commission on Human Rights.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Kevin Settles to the floor with the recommendation that it be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Mack A. Redford who was appearing before the Committee for approval of his reappointment as commissioner to the Public Utilities Commission (PUC). **Mr. Redford** stated that the PUC is a quasi-judicial branch and derives its authority from the legislature. It employs 49 full-time employees and five lawyers from the Attorney General's Office.

The PUC hears cases on applications for certificates of public need and convenience along with compliance contracts, demand sight management, energy saving programs, low income utility issues, and oversight for pipeline and railroad safety.

Presently the PUC is working on 100 open cases. Their most challenging cases are rate cases which have a long learning curve because of the accounting system. Last year the PUC's consumer division processed 1,877 utility and low income complaints, which saved customers approximately \$114,000.

Other issues that face the PUC are renewable resources and credits, curtailment of resources when utilities are at capacity, integration costs, and water company compliance. Emerging issues concerning the Federal Energy Regulatory Commission (FERC) and Environmental Protection Agency (EPA) concerning application of laws for coal fired plants, shale gas extraction and the telecommunication industry.

Senator Siddoway asked for clarification on the 300 megawatts that the utilities are having trouble distributing. Are they having trouble collecting the watts or are they having trouble selling that extra power or with the system to distribute the power? **Mr. Redford** said the 300 megawatts that will come online will have nowhere to go because Idaho Power is at capacity.

Senator Werk asked if there is a rate negotiation organization to represent the regular rate payer. **Mr. Redford** answered that most of the rate complaints from customers are fielded by their consumer division along with some community action partnerships who represent the low income groups at rate hearings.

Senator Werk asked if a state authority could be appointed to expedite the process for placement of transmission lines. **Mr. Redford** answered that the siting authority should remain with the counties, local communities and cities. **Senator Werk** asked how the electric utilities get from not having enough power and building Langley Gulch to not having enough transmission ability for the power generated. **Mr. Redford** responded that when Idaho Power brought the Langley Gulch plan to the PUC, there was a deficiency in power. There was no indication that the current transmission resources would be inadequate. **Senator Werk** asked if the PUC is looking to the future to shape a long term energy policy for ten to twenty years down the road when energy needs and conditions might change. **Mr. Redford** stated that all the utilities must file an annual report which includes their long-term plans.

Chairman McKenzie thanked **Mr. Redford** for his attendance and advised him that the Committee would vote on the confirmation at the next meeting.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McKenzie welcomed **Representative Gibbs** who introduced W. Craig Corbett, the gubernatorial appointment to the Idaho Lottery Commission (Commission). **Representative Gibbs** explained that a year ago Director Anderson asked him to recommend some names of candidates for an Idaho Lottery Commission position. He submitted Craig Corbett's name who, he felt, would serve our State well with responsibility and enthusiasm.

Mr. Corbett stated that he has been a farmer all of his life, but also has been involved in community affairs. He was appointed to the Idaho Barley Commission and served for six years. While in that capacity he was elected president by the National Barley Growers. He has served on the Grace School Board for eleven years in the area of school finance and is currently on the Risk Management Council. When Representative Gibbs suggested he consider a position on the Commission, he researched the lottery and the responsibilities of this appointment and decided he would pursue this opportunity.

Senator Stennett asked how often the Commission evaluates the percentage distribution of the contributions for education. **Mr. Corbett** answered that the Commission looks closely at income, expenses and what is to be allotted back. The commissioners take a conservative view in the distribution of funds to make sure that all the proceeds get distributed to the intended allotments.

Chairman McKenzie thanked **Mr. Corbett** for his attendance and advised him that the Committee would vote on the confirmation at their next meeting.

RS 21701

Relating to Codifier and Technical Corrections

Katharine Gerrity, Legislative Services Office (LSO), stated that **RS 21701** is LSO's annual codifier correction bill. There are seventeen sections of the code included in this bill. The revisions that are proposed include codifier suggested corrections which involve changes in names of programs and entities. Other requested changes were where multiple amendments have occurred to a code section during the year as well as the clean-up of some duplicated wording. Technical corrections were made that involve simple grammatical or punctuation changes to match LSO's standard writing style for legislation.

MOTION:

Senator Siddoway moved to send **RS 21701** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 21707

Relating to the Board of County Commissions

Senator Durst stated that the intent of **RS 21707** is to elect county commissioners by zone. It has been difficult to find out what the fiscal impact will be within counties because county clerks do not post records of elections publicly.

This legislation concerns more rural counties where population centers may have undo influence on commissioners that may not reside within that particular population center. The goal is to make these zones that do not reside within this population center self-sufficient so there can be a fair representation.

Senator Werk asked if a potential commissioner stands for election in a county zone, when the election occurs, does the entire county vote on the full slate of commissioners? **Senator Durst** responded that was the current process. **Senator Werk** clarified that the division lines for the zones within the county (three per county) are drawn for equal population representation. What is being proposed in this legislation is that each member of a board of county commissioners shall be elected from the district in which he resides. **Senator Durst** answered that these districts will now elect a commissioner who resides in their district. This bill will provide more precision and better representation for those constituents in the zones. They will have the opportunity to directly elect legislators outside of the zone.

Senator Lodge questioned the problems it might cause the county election officials concerning consolidated elections with so many different city zones. The zones would have to be separated out. **Senator Durst** stated that he had checked into the impact and for most counties, it will have a very low impact for their election process. The zones already exist within the precincts, so it would just be a matter of when they print the ballot. Instead of having two commissioners the ballot would only have one. **Senator Lodge** asked Senator Durst to check, as part of his research, with the clerks of some of the smaller counties to see what the cost will be for them and Canyon County.

MOTION:

Senator Hill moved to send **RS 21707** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:02 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 28, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of January 14th	Senators Winder and Werk
VOTE ON GUBERNATORIAL APPOINTMENT	The appointment of Mack Redford to the Public Utilities Commission.	
VOTE ON GUBERNATORIAL APPOINTMENT	The appointment of Craig Corbett to the Idaho Lottery Commission	
GUBERNATORIAL APPOINTMENT	The appointment of Randolph J. Hill to the Idaho Energy Resources Authority.	
DOCKET NO. 52-0103-1203	Continuation of Pending Rule: <u>Idaho State Lottery</u> 52.01.03 - Rules Governing Operations - <u>Page 68</u>	Jeff Anderson, Exec/Dir., Idaho State Lottery

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 28, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present. The first order of business was to approve the January 14th minutes.

MOTION: **Senator Werk** moved to approve the minutes of January 14th. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENTS: The reappointment of Mack Redford to the Public Utilities Commission.

MOTION: **Senator Winder** moved to recommend that the Senate approve the appointment of Mack Redford to the Public Utilities Commission (PUC). **Senator Lodge** seconded the motion.

Senator Werk voiced some of his concern with the answers given at the hearing but he will certainly support the appointment. He hopes the PUC will become a little more forward thinking.

The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENTS: The appointment of Craig Corbett to the Idaho Lottery Commission.

MOTION: **Senator Siddoway** moved to recommend that the Senate approve the appointment of Craig Corbett to the Idaho Lottery Commission. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Randolph J. Hill who has been reappointed for the third time to the Idaho Energy Resources Authority (IERA) and asked him to discuss what has occurred since his last appointment, the workings of the IERA and how he sees it operating in the future.

Mr. Hill stated that he was first appointed to the IERA in 2005 by Governor Kempthorne for a one year term, then for a subsequent term by Governor Risch and then, sat on the board until the term limit expired in 2011. After being absent for a year, he has been asked to serve again.

The IERA is designed to assist electric utilities in financing transmission generation projects that serve people in Idaho. They have successfully assisted Utah Associated Municipal Power System (UAMPS) and its members, including the city of Idaho Falls, in financing a wind project. Once that facility went into commercial operation, all ownership by the IERA was transferred out and they achieved their objective. IERA has been in discussions with Bonneville Power Administration to assist in providing efficient financing vehicles for transmission projects such as the Gateway West Project.

Mr. Hill closed by saying that the relationship with Bonneville is one the IERA sees as beneficial because they can provide a large organization that has so much impact throughout the Northwest with a tool to help create facilities that will serve Idaho citizens.

Senator Hill asked for an explanation of where the financing comes from. Are they government funds, banks or other authorities? **Mr. Hill** responded that they provide the vehicle to allow financing to occur through private resources such as bond issuance or lenders; it is not government money. IERA does not have funding.

Chairman McKenzie asked for an update on the Gateway West Project. Is there any additional need for the IERA to be a part of that project? **Mr. Hill** could not provide the latest information but Bonneville has been in contact with Chairman Mooney and others about IERA's participation to facilitate another piece of the Gateway West Project. There may be a number of organizations that will participate. Routing and permitting continue to be a concern. Something meaningful and cost effective should come out of the discussions.

Chairman McKenzie advised **Mr. Hill** that a vote on the appointment will occur at the next meeting. The **Chairman** announced that **Docket 52-0103-1203** is continued from the meeting of January 21. **Jeff Anderson** will continue that presentation.

**CONTINUATION
OF DOCKET NO.
52-0103-1203**

52.01.03 - Rules Governing Operations, Idaho State Lottery

Mr. Anderson noted that this docket can be found on page 67-68 of the 2013 Pending Rules Book. The Lottery Commission brought the negotiated pending rule that allows for instant ticket games to be played through kiosk dispensing devices that currently only offer draw games such as Power Ball and Mega Millions before the Committee. The Committee asked for clarification on the nature of the kiosks. **Zeke Chemodurow**, Regional Director, Western United States, **Intralot**, and **Jeremy Chou** from **Givens Pursley** will answer any technical questions that may arise.

A video has been developed with **Mr. Chemodurow** and **Mr. Chou** as guides. They described where the kiosks are located, what a paper instant ticket is and spoke to the multi-purpose kiosk. The video also took the Committee on a tour of the offices and operations for the Western operations of **Intralot**. **Intralot** runs the systems for New Mexico central systems for hotline operations, South Carolina's disaster recovery system, Montana's central system as well as Idaho's central gaming system and its hotline operations. **Mr. Anderson** stood for questions.

Senator Hill asked what is the maximum dollar amount that can be played. **Mr. Anderson** replied that it would be 10 draws at \$1.00 per draw with a maximum of 20 draws.

Senator Werk asked if an instant game was purchased, would it be similar to going to a store and purchasing a ticket? Will this new game be like scratching a paper ticket only on a device? **Mr. Anderson** stated it would. A player would pick the number to scratch; similar to a bingo game. **Senator Werk** asked what happens if a player is a winner? **Mr. Anderson** responded that money was not dispensed from the device. If a ticket is a winner, it holds that amount until the end of play then a secure voucher is printed which can be taken to the attendant at that location and winnings can be collected.

Senator Winder asked for an explanation of Rule 204 concerning online games and internet games. What is the difference? **Mr. Anderson** explained that none of their games touch the internet. Everything is through the central gaming on a closed satellite system like the one described by Mr. Chemodurow. The Lottery Commission does not contemplate any internet gaming.

Chairman McKenzie called for further questions. Being none, **Chairman McKenzie** thanked Mr. Anderson and asked for the will of the Committee.

MOTION:

Senator Hill reviewed the docket and found that all changes revolved around Rule 204.02.d.

Senator Hill moved to reject **Docket No. 52-0103-1203**. **Senator Davis** seconded the motion.

Senator Werk respected the issues but sees this as a leveling of the playing field which already has the electronic touch tab games.

**SUBSTITUTE
MOTION:**

Senator Werk moved to approve **Docket No. 52-0103-1203**. **Senator Stennett** seconded the motion.

Chairman McKenzie asked for discussion on the substitute motion.

Senator Werk stated that fair is fair; if we want to get rid of the lottery, get rid of it and the same with scratch games. Those other decisions should be made elsewhere.

Senator Winder asked Senator Werk to yield to a question. He agreed. Senator Werk was asked to explain what he meant by leveling the field. **Senator Werk** explained that there are already games that can be played on electronic kiosks similar to this proposal and those exist in bars where people over 21 can play. The scratch tickets are the equivalent of what is now being played.

Senator Winder asked Mr. Anderson what impact this would have on tribal gaming. **Mr. Anderson** said that there would be no impact.

MOTION:

Chairman McKenzie called for a voice vote on the substitute motion to approve **Docket No. 52-0103-1203**. Being in doubt with a voice vote, the **Chairman** called for a **roll call vote** with Senators Fulcher, Winder, Lodge, Stennett and Werk voting aye and Senators Davis, Hill and Siddoway voting nay. The substitute motion carried five to three. The docket was approved.

ADJOURNED:

Chairman McKenzie announced that today's work is completed and adjourned the meeting at 8:30 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 30, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	Vote on the appointment of Randolph Hill to the Idaho Energy Resources Authority	
GUBERNATORIAL APPOINTMENT	The appointment of Gary Mahn to the Idaho Endowment Fund Investment Board	
GUBERNATORIAL APPOINTMENT	The appointment of Eric R. Anderson to the Idaho Energy Resources Authority	
PRESENTATION	The Emergency Communications Commission 911 (ECC911) Annual Report	Bob Wells, Idaho Bureau of Homeland Security

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 30, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: Vote on the gubernatorial reappointment of Randolph Hill to the Idaho Energy Resources Authority.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Randolph Hill to the Idaho Energy Resources Authority to the Senate floor with a recommendation that it be confirmed by the Senate. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Gary Mahn, the gubernatorial appointee to the Idaho Endowment Fund Investment Board (EFIB or Board). He asked him to tell about past activities, where the Board may be going in the future and his role on the Board.

Mr. Mahn stated that he is new to the EFIB and has attended one meeting in an unofficial capacity. He is very impressed with the job the EFIB is doing. The year-to-date return is over 11 percent which meets the goal of maximizing returns with minimum risk. As an EFIB member, he will exercise his abilities to continue to meet that goal. **Chairman McKenzie** asked Mr. Mahn to explain his philosophies between the EFIB and their interaction with the professional investment managers. What is the role of the EFIB with respect to how direction is given for the management of funds and the allocation of funds to different investments?

Mr. Mahn responded that, as of yet, he hasn't studied the allocations but he is familiar with the responsibilities of the EFIB and their oversight of the managers to assure they are doing the best job possible in their particular sectors and that they are held accountable for the benchmarks the EFIB sets forth. He is committed to making a change if a manager is not performing in a manner to meet the EFIB goals.

Senator Fulcher asked if Mr. Mahn's current commitments leave time for him to devote to the EFIB. **Mr. Mahn** stated that he is now retired after selling his business this past summer so he actually has extra time to spend on this endeavor. The EFIB is something he is honored to serve on and looks forward to participating in. It will be interesting, it is something he believes in and it will serve the citizens of Idaho.

Senator Siddoway stated that he was concerned with the return on the investment of the endowment plans. What would you do about a non-performing asset? **Mr. Mahn** answered that, at this time, he was not familiar with any non-performing assets. But, in working with the EFIB, he will address those types of issues and what constraints are involved with managing those assets. His focus will be to capitalize on opportunities to gain revenue while sustaining relationships.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Representative Eric Anderson, the gubernatorial appointee to the Idaho Energy Resources Authority (IERA).

Representative Anderson described the IERA as a "creature of legislature": the result of legislation passed in 2004. **Representative Anderson** gave a snapshot of his background as follows: served on the Northwest Public Power Association's Trustee Board for six years; was a Director of the National Electric Cooperative Association; and, served in various capacities in other energy resource types of organizations. Dealing with public power is like a quasi-public utilities commission. A lot of the work on the IERA board surrounds the purchase of generation power plants for small plants who do their own financing for substation upgrades and transmission distribution lines. The IERA is involved in selling bonds to determine the lowest possible rates available to the citizens of Idaho in the development of generation and transmission projects.

Senator Fulcher asked if he anticipated any conflicts of interest. **Representative Anderson** responded that he did indicate in his application that there could be potential conflicts. He will do his fiduciary and due diligence in that matter by making any benefits that would apply clearly apparent.

Senator Winder requested an explanation of what the IERA does and the responsibilities that go along with this appointment. **Representative Anderson** stated that the IERA was constructed because of rate volatility and the inability for local jurisdictions to fund/finance projects. The IERA determines the financial viability of the project and finds a mechanism to bond and to finance these projects through the selling of bonds. The IERA is not a public utility or public utilities commission. The IERA does have certain limited powers to accomplish its goals. The IERA is a not-for-profit agency with a goal to provide power and generation transmission capabilities at cost to the citizens of Idaho.

Senator Hill asked how many of the boards or committees listed on your application do you still serve on that could possibly create a conflict. **Representative Anderson** answered that the only current board he sits on is the Northern Lights Electric Cooperative Board. It is a member of the Northwest Public Power Association and the Pacific Northwest Generation Cooperative but he is not on those boards.

Senator Werk asked how Representative Anderson views his role as a planner for "don't plan for today, plan for tomorrow." **Representative Anderson** answered that he is very aware of the different types of renewable energy projects that exist around the state. He understands the issues

- Too much water.
- Not enough water.
- Fishery issues.
- Oversaturation of gas in water when there are spills.

Part of the dialogue would be how to contractually bind the players, determine the feasibility and keep from overbuilding. He is not opposed to renewable projects but they have a place and a role; there must be a balance. **Senator Werk** asked

if the IERA would get involved in storage technology. **Representative Anderson** stated that his first impulse would be to say yes. However, he doesn't know if current legislation provides for the IERA to get involved in that type of program. It speaks specifically to generation transmission.

Senator Siddoway inquired if the IERA has any ability to intervene with suggestions or direction in some of the transmission line projects running from Canada to/through various states. Transmission doesn't go in straight lines because they would have to cross federal or state lands; they can only go on private land. **Representative Anderson** responded that they could not intervene. They could only work with local municipalities on bonding authority. There is a continuing need to work on corridor designations.

Senator Siddoway asked if there was a size restriction on the projects the IERA gets involved with. **Representative Anderson** said that there was not a size restriction, it is more to do with the capacity of the utility or city to effectively secure a bond.

Chairman McKenzie announced that the two appointments will be voted on at the next meeting.

PRESENTATION: The Annual Report of The Idaho Emergency Communications Commission (IECC)-911) (ECC911) by Eddie Goldsmith, Idaho Bureau of Homeland Security. **Chairman McKenzie** welcomed Mr. Goldsmith.

Mr. Goldsmith began by providing some background on the 911 emergency system. 911 was created in 1969 with the first call made in Alabama. The first call in the state of Idaho was in 1984 in Mountain Home. The technology that was used then is still being used today. In 2004, the Governor's Office created the IECC which consisted of 13 members. The mission was to enhance Idaho's public health, safety and welfare by assisting emergency communications and response professionals and the establishment, management, operation and accountability of consolidated emergency communications systems. **Mr. Goldsmith** provided a full discussion of the report which is included as part of these minutes (Attachment 1). After the report, **Chairman McKenzie** called for questions from the Committee.

Chairman McKenzie stated that the 25 cent fee is granted in statute. Would you bring legislation for an extension? **Mr. Goldsmith** answered that they were going to try to do that this session. The rural counties with a population of 20,000 or less do not have any additional revenue in the \$1.00, 911 fee to do any upgrades, add new systems and provide maintenance.

Senator Lodge referred to the 37 counties that are participating in the service; what counties are not? Also, why are they not participating? **Mr. Goldsmith** referred to the map on page 23 of the report that showed the counties with and without the service. The three counties with the most population do not participate; that amounts to 65 percent of the population. At this time, receipts total about \$1,700,000. If every county participated, they would receive four or five million dollars. The decision to participate is up to the County Commissioners. The larger populated areas have enough population base that the 911 funds are quite large and there is not a need for a grant.

ADJOURNED: **Chairman McKenzie** thanked Mr. Goldsmith and, being no further business, adjourned the meeting at 9:53 a.m.

Senator McKenzie, Chairman

Twyla Melton, Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 01, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 18, 2013	Senators Davis and Stennett
<u>RS21785C1</u>	A Concurrent Resolution to reaffirm Idaho's commitment to the relationship between the State and Taiwan.	David Johnston, Intern for Senator Fulcher
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Gary Mahn to the Idaho Endowment Fund Investment Board.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Eric Anderson to the Idaho Energy Resources Authority.	
GUBERNATORIAL APPOINTMENT:	The appointment of Jani Lynn Revier as Administrator of the Division of Financial Management (DFM).	
GUBERNATORIAL APPOINTMENT:	The appointment of Gregory J. Schade to the State Building Authority.	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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Phone: 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 01, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. The first order of business was the approval of the January 18th minutes.

MOTION: **Senator Stennett** moved to approve the minutes of January 18, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 21785C1 A Concurrent Resolution to reaffirm Idaho's commitment to a strong relationship with Taiwan. **David Johnston**, Intern for the Senate Majority in Senator Fulcher's office, introduced the RS. Taiwan is a major trading partner with Idaho and is the second largest export destination for the state with an estimated \$761 million exported to Taiwan from Idaho during 2011. The primary export products are semiconductors, computers, capital equipment, agricultural products, wood and building materials. Idaho also enjoys a sister state relationship with Taiwan that originated in 1984.

This measure recognizes the current relationship; that Taiwan is a trading partner and also reaffirms and restates that Idaho would like to continue to grow and develop the relationship.

Senator Davis referred to line 32 of the RS and asked how the issue with the beef exports had been resolved, and what was the time frame. **Mr. Johnston** replied that he was not familiar with the exact specifics, but it concerned the federal government and Taiwan. He volunteered to get additional information on the specifics and the time frame.

Senator Hill responded to Senator Davis' question. The main issue was that Taiwan would not accept beef that was subject to any type of growth hormones. It started about two years ago and the **Senator** was not sure if the problem has been resolved. The Idaho Department of Agriculture could respond to any questions from the Committee.

Senator Stennett commented on the standard and qualifications required by Taiwan for our products and stated that the cooperation between the two countries ensured that both sides had come to agreement and a good understanding of what each required. It is a remarkable working relationship.

MOTION: **Senator Davis** moved to print **RS 51785C1**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: Vote on the appointment of Gary Mahn to the Idaho Endowment Fund Investment Board.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Gary Mahn to the Idaho Endowment Fund Investment Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: Vote on the appointment of Representative Eric Anderson to the Idaho Energy Resources Authority.

MOTION: **Senator Hill** moved to send the gubernatorial appointment of Representative Eric Anderson to the Idaho Energy Resources Authority to the floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The appointment of Jani Lynn Revier as Administrator of the Division of Financial Management (DFM). **Chairman McKenzie** welcomed Ms. Revier and asked her to tell about her background and how she viewed her role as administrator of the DFM in the future.

Ms. Revier explained that she is a fifth generation Idahoan from Three Creek Idaho (Owyhee County) whose family has been involved in cattle ranching and public service. **Ms. Revier** outlined her qualifications gained through education with both post-secondary and advanced degrees, and experience ranging from Legislative Assistant for Idaho Senator Larry Craig in Washington, D.C. to the Senate Agricultural Committee Sub-Committee Staff Director. In 2001, she became then Congressman Butch Otter's Legislative Director overseeing the policy functions of his office and ultimately became Chief of Staff for Congressman Otter. Her education as well as her Washington, D.C. experience, developed skills that are relevant to be the DFM Administrator.

In her short time at the DFM, **Ms. Revier** has learned to appreciate the role the agency plays in the budget process. She intends to work hard and have a positive relationship with the Legislature and the Legislative Budget Office. The DFM should be responsive to the concerns of not just the Governor's Office, but also to the legislature and the various agencies that make up state government. DFM should be a source of honest, reliable information and an agency accessible to policy makers, open to alternative points of view and capable of adjusting to the changing needs of the Governor, the legislature and state agencies throughout the budget year. The DFM will fulfill its mission in a professional, open, transparent and trustworthy way being a partner to the legislature, not an adversary.

Ms. Revier described the three principles contained in the Governor's budget process: 1) Grow government at a lower rate than the economy; 2) Replenish reserve funds that were depleted during the recession; and, 3) Return the state budget to a structural balance. She will work with the legislature to develop a budget while sticking to these principals. If confirmed, **Ms. Revier** will work on the challenges ahead.

Senator Davis spoke to the issue of conflicts due to the political activities of Ms. Revier's family; how will you keep the confidences of the Governor and at the same time maintain the quality personal relationships you have with your family? **Ms. Revier** responded that her father is a Senate Committee Chairman and she has provided that information and has secluded herself from any legislation or issue related to Senator Brackett. She stated she would not give special favor to family members.

Senator Fulcher noted that there is frequently a difference of how DFM reports figures versus how the Legislative Services Offices (LSO) staff reports them. How do you plan to work with LSO? **Ms. Revier** stated that she plans to coordinate with LSO to compile a reliable source of information for the Governor.

Chairman McKenzie referred to the Governor's principles that were used when developing the budget. Will those principles guide your counsel to the Governor in the future? **Ms. Revier** answered "yes."

Senator Siddoway stated that his past experience when working with Ms. Revier, has been such that he has confidence in her competency. She is dedicated, works hard and will get the job done.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced the next gubernatorial appointee, Greg Schade to the State Building Authority.

Mr. Schade explained that he has been in Idaho most of his life. He graduated from Nampa High School and attended the University of Idaho, completed his degree in dentistry at Northwestern University and then practiced in Idaho for 30 years. **Mr. Schade** went on to outline his business, professional and community activities all of which would qualify him to hold a position on the State Building Authority.

Senator Stennett observed that Mr. Schade had a lengthy list of diverse activities. The **Senator** asked about his activities in the petroleum industry and asked what would he bring to the State Building Authority. **Mr. Schade** said that his family owned Gem State Petroleum Company and he grew up with gas and oil. He was part owner of the real estate but not the business. He has not been in that business for over ten years. Governor Batt asked him to chair a committee to work with the Department of Environmental Quality and he served in that position for an eighteen month period working to compile a comprehensive report. **Mr. Schade** said he has run a small business and follows a common sense approach to financing and he also follows a very conservative agenda.

Chairman McKenzie asked for any further questions from the Committee.

ADJOURNED: Being no further business, **Chairman McKenzie** adjourned the meeting at 8:30 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 04, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENTS:	Vote on the appointment of Jani Lynn Revier as Administrator of the Division of Financial Management	
VOTE ON GUBERNATORIAL APPOINTMENTS:	Vote on the appointment of Gregory Schade to the State Building Authority	
S 1025	Relating to the County Option Kitchen and Table Wine Act to revise the size of a container of wine a distributor or importer is allowed to purchase, receive or sell.	Roger Batt, Idaho Grape and Wine Producers

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 04, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Stennett and Werk

ABSENT/ EXCUSED: Senator Siddoway

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present. The Committee will vote on two gubernatorial appointments that were heard last week.

VOTE ON GUBERNATORIAL APPOINTMENT: The appointment of Jani Lynn Revier as Administrator of the Division of Financial Management.

MOTION: **Senator Fulcher** moved to send the gubernatorial appointment of Jani Lynn Revier as Administrator of the Division of Financial Management to the Senate floor with the recommendation that it be confirmed by the Senate. **Senator Hill** seconded the motion. The motion carried by voice vote.

VOTE ON GUBERNATORIAL APPOINTMENT: The appointment of Gregory Schade to the State Building Authority.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Gregory Schade to the State Building Authority to the Senate floor with the recommendation that it be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by voice vote.

S 1025 **Chairman McKenzie** introduced Roger Batt to present **S 1025**. **Mr. Batt**, representing the Idaho Grape Growers and Wine Producers, explained that **S 1025** amends the County Option Kitchen and Table Wine Act (Act) by increasing the container size for wine to a 15 gallon container without receiving permission from the Idaho State Police.

Reasons for making this change are:

1. The first Act is 42 years old and was passed when there were no wineries in Idaho.
2. The industry is growing.
3. Idaho wineries are receiving requests from restaurants and individuals for larger containers.
4. Wineries must ask permission each time anything over one gallon is sold.
5. The increase in size would improve the competitive advantage over out-of-state distributors.

The industry met with Alcohol Beverage Control and the Idaho Beer and Wine Distributors. Neither were opposed to the proposal. There will be no fiscal impacts to the General Fund. Mr. Batt stood for questions.

Senator Stennett asked how they arrived at the 15 gallon size. **Mr. Batt** said they looked at the beer sizes and beer came in 15 gallons so they thought wine could also.

Senator Hill inquired if any distributor's request to sell a larger size container had been denied and, if so, on what grounds. **Mr. Batt** responded that, to his knowledge, no one had been denied.

Senator Davis asked if there was a methodology in place to obtain a continuing consent. Why not bring legislation for continuing consent so there could be confidence that the statute is not a barrier to a business function? **Mr. Batt** said that he was not aware that there could be a continuing consent. They did not approach the consent aspect. They only thought about increasing the size.

Senator Davis wanted to know how the 15 gallon size compared to the surrounding states. Does it make Idaho the most liberal state on this issue? **Mr. Batt** said he didn't know about the surrounding states but California had no limitations on size. **Senator Davis** would like to know if the surrounding states that clearly compete with Idaho have container size limits. **Mr. Batt** couldn't answer but will do some research to answer that question.

MOTION:

Senator Stennett moved to send **S 1025** to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion.

Senator Winder noted that there were some valid questions asked even though there didn't seem to be an issue with the state police. Would it be better to hold **S 1025** for one day and get some answers to these questions.

**UNANIMOUS
CONSENT:**

Chairman McKenzie stated that the outstanding question was: "what do the surrounding states do?" He asked the senators making and seconding the motion if it could be held until the next meeting to address that question. They approved. The bill was held until the next meeting by unanimous consent.

ADJOURNED:

Being no further business, **Chairman McKenzie** adjourned the meeting at 8:12 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 06, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes of January 23, 2013	Senators Hill and Lodge
RS21840	Relating to the sale of Keg Beer to revise the size of a keg of beer to be sold at a licensed premise.	Senator Patrick
GUBERNATORIAL APPOINTMENT:	The reappointment of Melville W. Fisher II to the Idaho Lottery Commission.	
GUBERNATORIAL APPOINTMENT:	The appointment of Mark William Lliteras to the Idaho Energy Resources Authority.	
GUBERNATORIAL APPOINTMENT:	The reappointment of Gavin Gee to the Idaho Endowment Fund Investment Board.	
GUBERNATORIAL APPOINTMENT:	The appointment of James C. Hammond to the Idaho State Racing Commission.	
S 1025	Continuation of S 1025 relating to wine container size.	Roger Batt, Idaho Grape and Wine Producers
HCR 4	Commending Idaho Native Kristin Armstrong for her accomplishments at the 2012 Summer Olympics and for her superior attitude, work ethic, focus and exemplary conduct.	Senator Werk

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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Phone: 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 06, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. with a quorum present.

MOTION: **Senator Hill** moved to accept the minutes of January 23, 2013. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 21840 **Chairman McKenzie** welcomed **Senator Patrick** who presented **RS 21840** – Relating to the Sale of Keg Beer.
Senator Patrick explained that this simple piece of legislation will allow microbreweries which produce beer in five gallon containers, to sell their product in a five gallon container instead of meeting the current requirement of selling a size no less than seven and three quarter gallons.

MOTION: **Senator Werk** made a motion to send **RS 21840** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The reappointment of Melville W. Fisher for a third term with the Idaho Lottery Commission (Commission). **Chairman McKenzie** introduced Mr. Fisher and asked him to talk about the work of the commission since his last appointment and his role for the future.

Mr. Fisher stated he had been on the Commission for ten years and each year they have seen increased revenues. The Commission is an oversight committee that monitors machines and looks for varied kinds of games for gaming opportunities. They also monitor the security system and can now hear cases for suspension of gaming licenses; this is new.

Senator Siddoway said that as he observes people buying lottery tickets that may not have the discretionary income to be spending on those tickets, he is concerned about the social impact of these games. Are there any funds available to convey a responsibility about playing to people? **Mr. Fisher** stated that they are always concerned about problem gaming. They send out a clear message to play responsibly. They have a hot line for gambling problems, there is a contact number for Gamblers Anonymous, they make sure games are secure and publicity is limited. Packets explaining all of these programs are available.

Senator Siddoway asked if the costs for the programs were paid for out of the proceeds of the lottery or are they shifted to other institutions? **Mr. Fisher** wasn't exactly aware of how Gamblers Anonymous works, they only have a contact number. The other programs would be referrals to state agencies or self help programs.

Senator Lodge noted that Mr. Fisher has an AV rating with Martindale-Hubbell. What does that mean? **Mr. Fisher** explained that Martindale-Hubbell is a nationwide rating system for attorneys. An "A" is a top rating received among your peers; a "V" rating is the ethics rating. An "AV" is the top rating a lawyer can achieve.

Senator Winder disclosed for the record that he intends to vote, but Mr. Fisher has provided him and his family services over the years.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McKenzie welcomed Mark William Lliteras, the Gubernatorial Appointment to the Idaho Energy Resources Authority (ERA). **Chairman McKenzie** noted that the ERA has had members with backgrounds in energy, public service and banking. Describe how your background will fit into your role on the ERA.

Mr. Lliteras stated that this is his first appearance before the Committee. Over the last 40 years, he has been employed in the banking field specializing in commercial banking. He has been involved with businesses of all sizes as well as utilities. He has not attended any meetings since none have been held since his appointment.

Senator Davis said that it is his responsibility to disclose his connection with Mr. Lliteras in the commercial banking area and that their family business has a line of credit at Wells Fargo Bank.

Senator Werk noted that Mr. Lliteras is a registered lobbyist for Wells Fargo. **Mr. Lliteras** confirmed that statement. **Senator Werk** asked if Mr. Lliteras could foresee potential conflicts of interest. **Mr. Lliteras** explained that his registration as a lobbyist arose because part of his practice in commercial banking is through services with municipal authorities such as the State of Idaho. He does not actively lobby for or against bills in front of the legislature. There wouldn't be a conflict of interest from the lobbying side but from the commercial banking side there is the potential for a conflict of interest if Wells Fargo were to be involved with some of the financing or the sale of bonds. **Senator Werk** asked, if there was a conflict, how would you respond? Mr. Lliteras said that there would first be a disclosure to the ERA. In most cases, he would recuse himself.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McKenzie announced the reappointment of Gavin Gee to the Idaho Endowment Fund Investment Board (EFIB).

Mr. Gee stated that he is seeking confirmation from the Committee for his reappointment to the EFIB. He has served on the EFIB for 18 years. He has served as Vice Chairman of the board and was present during the transition from fixed income investments to the mixed equities and fixed income assets they have today.

The EFIB invests the assets of the state on behalf of nine beneficiaries. Not only do they have the responsibility to oversee the endowment fund assets but also the Idaho State Insurance Funds, Idaho Judges Retirement Fund and Idaho Parks and Recreation endowments. The EFIB's performance has been outstanding in recent years.

Senator Hill asked, as Director, what is the interplay between the Department of Finance and the EFIB. Is there interaction? Does the experience with one help with the responsibilities of the other? Will holding both positions cause any conflicts of interest?

Mr. Gee answered that before endowment reform, he was a statutory member of the EFIB. Since that reform, his position as Director of the Department of Finance (Department) is no longer a statutory position on the EFIB. One of the primary responsibilities of the Department is to regulate the securities industry that is licensed in Idaho. There are over 91,000 stockbrokers licensed to do business in Idaho with 95 percent coming from outside Idaho. They also regulate investment advisors that are state authorized under federal law; they do not directly regulate the large investment advisors that do business with the EFIB because they are regulated under federal law by the Securities and Exchange Commission (SEC). They do have antifraud jurisdiction over the large investment managers. Over his career, he has not seen any conflict of interest in his role as a regulator of the security industry. Hopefully, it has been helpful to the EFIB when there are regulatory issues, to share that knowledge when necessary.

Senator Davis asked if Mr. Gee would address the disclosure letter regarding his wife's employment at the accounting firm of Eide Bailly and Company. **Mr. Gee** explained that his wife is a salaried Certified Public Accountant with Eide Bailly LLP, which is currently EFIB's auditor. She has been with the firm nearly 20 years. She is not on the audit side of the business; she does primarily tax work. Now she only works during the tax season. She is not a partner, an equity partner or owner of the firm. **Mr. Gee** did raise the question with the Attorney General's Office and was advised that it did not appear to them to be a conflict of interest but they did advise disclosure and Mr. Gee has done that each year.

Senator Davis asked who makes the decision to employ this firm. **Mr. Gee** said that the EFIB employs the firm on a contract basis. When those discussions come up before the EFIB, he recuses himself.

Senator Winder disclosed that, as a member of the EFIB, he works with Mr. Gee on a regular basis.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced the appointment of Senator James C. Hammond to the Idaho State Racing Commission (Racing Commission).

Senator Hammond said he never expected to appear before the Committee in the capacity of the Racing Commission but it is his understanding that the Racing Commission has had some challenges and it was time to calm the waters and focus on the process of problem solving. He admitted to not knowing a lot about horse racing.

Senator Stennett asked if there was something that you believe you could lend to the position. **Senator Hammond** responded that he talked with the Chairman of the Racing Commission who had a lot of knowledge about horse racing, but not a lot about running a commission. **Senator Hammond** said that he could be of help. He has, and continues to, serve on many state boards and commissions. His expertise can be to advise the Racing Commission about moving forward in a positive manner, working together as a commission to increase revenues and abiding by the regulatory requirements.

Senator Hill asked what the rationale is for the differing years of service for board members, i.e. three years, four years, five years, and yours, for six years. **Senator Hammond** guessed that the reason would be to provide stability. Horse racing, as an industry, has been challenged to be profitable. Long-term planning will provide a regulatory environment that ensures the safety of the jockeys and the horses, but also to ensure that the industry will be viable and profitable.

Senator Lodge commented that the horse industry in Idaho is huge. There are one- horse owners to those with many horses or very expensive horses. It extends into the building industry and equipment. It is not just what happens at Les Bois Park; it is a big economic component in the state of Idaho. **Senator Lodge** is glad that someone with Senator Hammond's experience is taking on this challenge. **Senator Hammond** responded that being involved is a way to give back to the community.

Senator Davis asked about the type of consulting work that Senator Hammond does, and if it touches on or impacts racing. Focus on the potential for, or the absence of, conflict of interest. **Senator Hammond** stated that his company has no connection with racing, it is a company that works with employers on restructuring health care benefits.

Senator Siddoway asked what is the role of simulcasting. **Senator Hammond** said that he has only a surface level of knowledge in this area. Simulcasting is helpful to the horsemen; some of the profits of that function goes to horsemen to sustain their industry. Local horse racing probably would not be viable if simulcasting was not available.

Senator Winder explained that racing circles are discussing racing that would use historical races randomly selected and allow simulcasting of those races. What are your thoughts? **Senator Hammond** said he has some slight knowledge of that issue but not enough to comment. **Senator Winder** asked for information as it comes forward. **Senator Hammond** agreed.

Chairman McKenzie thanked Senator Hammond for his appearance.

S 1025

Chairman McKenzie opened discussion on **S 1025** relating to wine container size which was held over from last meeting by unanimous consent. Roger Batt, on behalf of the Idaho Grape Growers and Wind Producers, will continue the discussion.

Mr. Batt stated that colleagues within the industry have completed a lot of research through phone calls or e-mails to various state agencies in and outside Idaho. **Mr. Batt** took the opportunity to confirm that the Federal Alcohol and Tobacco Tax and Trade Bureau Rules do not restrict the size of containers. He provided data from surrounding states regarding wine container restrictions in each state. A copy of his comments is included with the minutes as Attachment A.

Senator Lodge asked how many small wineries have the ability to provide the 15 gallon kegs. **Mr. Batt** said there are several that are interested in having larger container sizes above the one gallon provision but not many have said that they would go to 15 gallon. Most of them would like to do five or seven gallon containers. **Senator Lodge** wanted to know if this will increase their ability to provide an Idaho product to Idaho restaurants. **Mr. Batt** answered yes, they are receiving requests at this time.

MOTION:

Senator Lodge moved to send **S 1025** the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

HCR 4

Chairman McKenzie introduced Jason Hudson, Intern for Senator Werk, to present **HCR 4** commending Kristin Armstrong for her accomplishments at the 2012 Summer Olympics.

Mr. Hudson urged the Committee members to join with their fellow legislators in the House of Representatives to adopt **HCR 4** commending a long time Idahoan, Kristin Armstrong, for her athletic accomplishments culminating in her victory at the 2012 Summer Olympic Games in London; and, for her superior attitude, work ethic, focus and exemplary conduct which serve as an example and an inspiration to Idahoans, and to all Americans. **Mr. Hudson** outlined Ms. Armstrong's specific qualifications, adversities, and commitments in her efforts to reach her goals. His comments are included as part of the minutes as Attachment B.

MOTION:

Senator Stennett moved to send **HCR 4** to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion.

Senator Werk stated that the presentation was great and he appreciated Mr. Hudson's effort.

Senator Winder echoed those comments. It made him relive some of the moments while watching her race on television. She is an amazing person both as an athlete and as a woman. It is an honor she deserves.

Chairman McKenzie added that after what American cycling has been through lately, she is definitely a bright star.

The motion carried by **voice vote**.

ADJOURNED:

Chairman McKenzie thanked the Committee and adjourned the meeting at 8:56 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #3
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 08, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the reappointment of Melville W. Fisher II to the Idaho Lottery Commission.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Mark William Lliteras to the Idaho Energy Resources Authority.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the reappointment of Gavin Gee to the Idaho Endowment Fund Investment Board.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of James C. Hammond to the Idaho State Racing Commission.	
RS21854	Relating to License to Retail Liquor to revise a provision for the issuance of a license for an equestrian facility.	Dain Johnson, Intern for Senator Lodge
RS21862	A Senate Concurrent Resolution to oppose the legalization of marijuana for any purpose in the State of Idaho.	Senator Chuck Winder
RS21872	A Senate Joint Memorial seeking to notify the governing bodies of the federal government to take appropriate action to ensure that the federal drug-free policy is upheld in all states.	Senator Chuck Winder
RS21900C1	Relating to the addition of a new Chapter 98, Title 67, Idaho code related selection of delegates to a constitutional convention.	Senator Curt McKenzie
PRESENTATION:	Broadband Initiatives: LinkIDAHO, Libraries, Healthcare, Business, Education and Public Safety.	Mike Field, State Broadband Coordinator

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 08, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED: Senators Davis

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present.

MOTION: **Senator Winder** moved to send the reappointment of Melville W. Fisher to the Idaho Lottery Commission to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to send the appointment of Mark W. Lliteras to the Idaho Energy Resources Authority to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Hill** moved to send the reappointment of Gavin Gee to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Lodge** moved to send the appointment of Senator James Hammond to the Idaho State Racing Commission to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 21854 **Chairman McKenzie** announced that **RS 21854** comes from the Caldwell Night Rodeo through Senator Lodge's office and will be presented by Dane Johnson, Intern for Senator Lodge.

Mr. Johnson stated that **RS 21854** makes minor changes for obtaining a liquor license for professionally sanctioned rodeos and equine facilities. Idaho Code 23-903 requires that a professional equine facility must be 40 acres and outside the city limits to acquire a liquor license. This bill changes that requirement to 25 acres in or out of the city limits to allow any professional equine facility to obtain a liquor license. **Mr. Johnson** deferred to Curt Ruehl, Chairman of Beverage Distribution for Caldwell Night Rodeo (CNR). **Mr. Ruehl** introduced Jim Bower, President of CNR and Facility Rental Manager.

Mr. Ruehl explained that they are not trying to change anything they are currently doing. Last year, it was brought to their attention that it was illegal to license two separate entities for an event. To continue to raise funds that go back to the community, the CNR needs to have a license as they have had in the past but make sure it is legal.

Senator Werk ask why and when the current provision was added into law. **Mr. Ruehl** investigated those questions in June, 2012. As a result, he worked with the chairman of Alcohol Beverage Control who thought the laws required an exempt permit for an equestrian professional event as well as with golf courses and ski resorts. The chairman did not say why the law was established, but it had been in effect for many years.

MOTION: **Senator Werk** moved to send **RS 21854** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 21862 **Senator Winder** began with some background information. This legislation was brought to him by Ken Harworth from the Association of Idaho Cities (AIC). There are issues with the surrounding states of Oregon, Washington and Colorado where marijuana is legal. This was an effort of the AIC to make a statement. It is not a change in the law; the purpose of **RS 21862** is only to make a statement.

RS 21872 **RS 21872** is a joint memorial that will be sent on to the President and the Congressional Delegation to Congress asking them to enforce federal laws. Currently, there is some conflict across the country with states legalizing marijuana which is not allowed by federal law. This is an effort on behalf of the cities to ask for help by enforcing the federal law.

Chairman McKenzie asked that if the two RS' are printed, would it be requested to have these come back to the Committee or go directly to the floor. There are some requests to testify; both pro and con. If it isn't going to come back, he would allow that testimony. **Senator Winder** did not have an objection to have them come back.

Senator Hill suggested that they come back to Committee because if there are some here today to testify, then there are probably others who would want to testify as well.

Chairman McKenzie stated it might be the preference of the Committee to bring them back in order to take testimony.

MOTION: **Senator Fulcher** moved to send **RS 21862** and **RS 21872** to print then return them to the Committee for a full hearing. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman McKenzie passed the gavel to Chairman Lodge.

RS 21900C1 **Chairman McKenzie** said that **RS 21900C1** relates to an Article V Convention. It is not calling for a convention, this language puts a procedure in place to select delegates if one was called. This is a request to print, but the intent is not to bring it back before the Committee unless there is support on the Senate floor. Printing will start the discussions.

MOTION: **Senator Siddoway** moved to send **RS 21900C1** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Lodge passed the gavel back to Chairman McKenzie.

PRESENTATION: **Chairman McKenzie** introduced Mike Field, the State Broadband Coordinator, to present the Broadband Initiatives.

LinkIdaho

Mr. Field stated that the Idaho Partnership was selected to coordinate this effort because they coordinate federal, state and local entities in rural Idaho and the lack of broadband service is in the rural areas of the state. All the projects that will be discussed today except for the Idaho Educational Network and the first responders have been funded by the National Telecommunications and Information Administration. **Mr. Field** outlined the strategy of the LinkIDAHO Project, gave an overview of the work completed and provided a profile of the future plans for the project.

Senator Werk referred to a map within the body of the presentation. It is disturbing in that there are broad spots without broadband where the Idaho Education Network (IEN) cannot cover schools in areas that need it most. **Brady Kraft**, Technical Director, IEN, stated that the map does not reflect the coverage of the IEN. He will go into more detail during his segment of the presentation.

Idaho Commission for Libraries (ICfL)

Gens Johnson, ICfL, explained that the ICfL and collaborating agencies have been working on a two year, \$2.8 million project to bring free public access broadband Internet services to the least connected residents of Idaho. Eighty percent of that funding came from the American Recovery and Reinvestment Act and twenty percent in matching funds came from the Bill and Melinda Gates Foundation and local in-kind contributions. When applying for funding, the objectives were to expand free access to broadband resources, engage in employment and education opportunities, target rural populations, connect Idahoans with purposeful Internet use and finish with sustainability.

Over the course of the project, Internet connectivity has increased by over 50 percent. \$800,000 in new revenues was spent on 18 service providers and telephone companies, of which 11 were local Idaho businesses, were involved in extending Internet access into rural communities. **Ms. Johnson** gave examples and data explaining the use of the services within the libraries across rural Idaho. Service announcements spread the word that Internet services were available at the library. People used online services at their local libraries to improve employment, education, civic engagement and health.

Healthcare

LaDonna Larson, Health Information Technology Coordinator, Idaho Health and Welfare, discussed the role of broadband in the healthcare arena and the strengths, opportunities and challenges in this area. In 2009 the Congress passed the American Recovery and Reinvestment Act which contains the Health Information Technology Act (HITECH). The goal of HITECH was to improve healthcare delivery and patient care through investment in health information technology by providing incentives for providers to adopt electronic health records and to use services to access them. It provided funding to train a health information technology workforce and the North Idaho College received some of that funding.

Electronic prescribing has grown with 97 percent of Idaho pharmacies receiving electronic prescriptions which is up from 82 percent in 2010. Medicare and Medicaid incentives encourage electronic health record adoption and all of Idaho hospitals plan to implement electronic health record systems. The Idaho Health Information Exchange received a \$5.9 million grant from HITECH to help develop capacity in Idaho. Real time data exchange at the point of care is critical to improving the quality and coordination of care. A new functionality, the image exchange, has been added. The image exchange allows users to log in and view the virtual health record, such as a radiology, report instantly.

Other opportunities will allow patients to access their own health information with services at Idaho libraries playing a key roll in providing access; will allow continued growth; and will allow more data to be available via the Idaho Health Data Exchange. There are still challenges to overcome such as reliability in some rural areas, the capacity to work remotely continues to be an issue, there is the lack of cell and cell data service, and affordability.

Senator Stennett asked if you and your partners are working with existing infrastructure, how does it affect the emergency 911 system? **Ms. Larson** responded that the Idaho Health System is working with existing systems like St. Lukes which is a founding member and other systems within the exchange. Everyone who has an electronic health system is connected to the exchange so information can flow freely back and forth. She will follow up on the 911 systems because those issues only apply to Clearwater and Orifino hospitals.

Broadband Opportunities, Strength and Challenges

Presented by Christine Frei, Executive Director, Clearwater Economic Development Association.

Ms. Frei explained that they are one of six economic development districts in Idaho. There are opportunities, strengths and challenges for broadband activity in the business and economic development sectors. In areas of business, such as remote access training, shipping, multi-site meetings, executing agreements and contracts, research, and marketing, broadband access contributes to business competitiveness.

Broadband grants help support broadband infrastructure development in areas where there is little service provider competition, where there is not a good return on investment and where initial investment is needed to encourage competitiveness between providers. **Ms. Frei** noted that their region in North Central Idaho does not have an interstate highway. A strong, robust broadband system can be another means of transportation. Challenging terrain makes it difficult and expensive to make broadband available for rural communities with fibre, using wireless with fibre is a way to strengthen the ability to meet small business needs. Improved broadband will support long term growth of the business community.

Ms. Frei said they completed a needs assessment and design scheme to address broadband needs to get a sense for future actions. First Step Internet and the Nez Perce Tribe, in separate broadband grant awards, have been able to secure funding for the broadband middle mile infrastructure in their region. The \$2.3 million Nez Perce Tribe project is addressing critical last mile needs; the \$3.0 million First Step Internet Middle Mile Project has increased the number of towers in their region. Other funding improved broadband access in specific communities.

Ms. Frei stated that they are not sure what gaps need to be filled in their region and have not seen how communities are using the infrastructure that has recently been put in place. Surveys are being used to determine existing usage and future demand. There is a new focus to look at mobility access as the use of phones and other devices are changing. Another area of concern is that there is no connection between northern and southern Idaho. Services are running outside the state to get from north to south which concerns central Idaho. It is exciting to work with partners and state legislators to find ways to more effectively use existing infrastructure and for expanding services to benefit all sectors within the state of Idaho.

Idaho Education Network

Presented by Brady Kraft, Technical Director, Idaho Education Network (IEN).

Mr. Kraft stated that the Idaho Education Network is three years old and was created by statute in 2009. The project was launched in July 2009 with the mission

to provide high band with connectivity to all the schools in Idaho and to have teleconferencing capability in each of the schools. Ninety-four percent of the initial schools that were connected were considered extremely rural by the United States Department of Agriculture. The original goal was to complete the project in three years but it was accomplished in two and one-half years. The IEN does not provide public Internet access to the schools, they are a virtual private network. They made a key decision to use the local exchange carriers as the primary connection point in each community. The IEN has a direct link into the Idaho State Network so the Idaho State Police, libraries, health and welfare, and others are connected. They also have connection to the higher education institutions as well as 215 rural high schools servicing a total of 86,101 students.

One of the strengths of the IEN is that they believe in public-private partnerships. Most of these are Idaho based teleconferencing companies and all of the schools and universities. The rurality of Idaho is a constant challenge. Idaho is the seventh most rural state in the nation; half the counties have less than ten people per square mile. Nine point two percent of the schools have less than 100 students and 64 percent have less than 400. A recent study said that 500 students was the minimum to have enough teachers to offer students access to all the courses. IEN and teleconferencing provides equalized access to those courses such as advanced calculus, French, Spanish, Japanese, world history and others with great teachers to make up for the deficits.

Over the last three years, they have grown to just under three and one-half gigs of usage and issued orders to increase broadband to accommodate the schools for the year. That will put them over four gigabits of band lift. Because of the infrastructure and the investments the partners have made, they currently have a 55 gigabit capacity. As more access is required, they will be able to buy more. Plans are in place to reach 91 gigabits capacity. The IEN will then have fibre in every community except nine and there is a plan for those nine. Because of the IEN there is more infrastructure capacity so local service providers will be able to distribute it to the communities. Post academies, police and fire fighting academies actually deliver training into the rural communities using the IEN.

National Public Safety Broadband Network

Presented by Robert Hugi, Idaho Bureau of Homeland Security, Public Safety Communications Branch, Technical Group Coordinator and State Interoperability Coordinator for Idaho.

Mr. Hugi spoke about the future National Public Safety Broadband Network and its 2008 vision to ensure operability, interoperability and continuity of communications to allow emergency responders to communicate as needed, on demand, and as authorized at all levels of government and across all disciplines. Public safety communications is in a state of evolution with the current typical voice system and the upcoming use of commercial and unlicensed broadband networks. Future technology will bring a convergence into a single, combined third network.

The Middle Class Tax Relief and Job Creation Act of 2012 set aside \$7.0 billion for a national public safety broadband network that would allow consultation with state, local, regional and tribal jurisdictions to determine the applications for use and the implementation of the network. This process begins in 2013. Until the decision is made whether or not to use the national network or an Idaho alternative, we will continue to use the current system and, in fact in the future, the systems will probably work side by side due to the rural nature of the state. There are still many questions to be answered.

Senator Winder asked if there was a parallel system available should a major tower quit operating. **Mr. Hugi** responded that they are currently working on that issue. There are 180 sites throughout Idaho and the networks have evolved and improved over the past five years so that any losses would not be apparent to the users. **Senator Winder** asked if we have made progress to make sure there is commonality of frequencies and, if so, how far along is that process. **Mr. Hugi** answered that commonality is currently a primary focus. They have obtained various grants to invest in a trunk radio system network and some counties have opted into that network and the state has a few sites within that network. They are currently assessing the progress.

Senator Fulcher asked Ms. Johnson to profile a typical library user now. Is it those who don't have access to the Internet; is it more students; or, is it for studies. **Ms. Johnson** reported that she has statistics on those who use computers in the libraries: Two-fifths of the people are women; one-quarter of the people are below the poverty level; and one-eighth of the people do not speak English as a first language. Obtaining information either on-line or through books, is still the primary reason people come to a library. Community hub activities and programs draw people to a library.

Senator Fulcher asked Mr. Kraft if usage for online correspondence has increased since the IEN was put in place, such as the number of courses or more access by rural schools. **Mr. Kraft** remarked that they have seen about a 200-400 percent increase in students accessing classes each semester over the last four years. There has also been an increase in the uses of virtual tours and collaborations where each is equal to a one hour enrichment course. This has led to a higher success rate among students. About 94 percent of the 1800 students that started class finished which compares to 40 percent with asynchronous systems. Blending choices has produces more utilization.

Mr. Kraft noted that the cost of the IEN is currently at 14 percent of the cost of Utah's network and four percent of the state network in Washington. Idaho has partners that invest in the infrastructure and we use a per student metric as a measurement while other states use a building metric. The student metric measures the number of kilobits per student instead of a base number of kilobits per building. The per student method provides a better measurement of usage so it is easier to purchase only the amount students are actually using.

ADJOURNED: **Chairman McKenzie** thanked each of the presenters for providing some very important information both to the Committee, to their constituents and to the state. Being no further business, the meeting adjourned at 9:45 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #3
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 11, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 16, 2013	Senators Fulcher and Siddoway
RS21995	Relating to County Officers to eliminate a conflict of interest that currently exists for county prosecutors.	Senator Jim Rice
RS21925C1	To add a new section 67-1410, Idaho Code, to establish an Internet Crimes Against Children Unit in the Office of the Attorney General.	Paul Jagosh, Fraternal Order of the Police
RS21729C1	Relating to the addition of a new section 33-107D, Idaho Code to prohibit public universities from discriminating against religious student groups.	Senator McKenzie
RS21870	Relating to Absentee Voting to provide for additional early voting opportunities.	Senator Werk

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 11, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present and called for a motion on the minutes of January 16, 2013.

MOTION: **Senator Fulcher** moved to accept the minutes of January 16, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 21995 **Senator Jim Rice** explained that there is an inherent conflict of interest in Idaho statute when county prosecutors represent county elected officials. Instead of complaints about violations of state law going to the county prosecutor, they should go to the attorney general. The county prosecutors have participated in the construction of this legislation and approve of the change. The \$212,600 fiscal impact is for an additional deputy attorney general and one investigator.

This does not reflect on the good prosecutors; they are managing any conflicting personal interests appropriately. Once in awhile someone misbehaves and can cost the county a substantial amount of money.

MOTION: **Senator Fulcher** moved to send **RS 21995** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 21925C1 **Paul Jagosh**, Fraternal Order of the Police, stated that **RS 21925C1** deals with internet crimes against children and was drafted by a task force from the Attorney General's Office. The task force has been operational for about five years and was funded by a \$200,000 grant from the federal government. Currently, Idaho is doing virtually nothing to combat this problem. The task force discovered about 5000 instances of people trading in child pornography using children ranging from teens to infants. Eighty percent of those people are currently or, have previously, molested children.

The task force uses one full-time investigator and some part time investigators. Last year they did about 45 investigations. This legislation establishes an Internet Crimes Against Children Unit as an official function of the Attorney General's Office and sends a message that Idaho will not be a safe haven for people carrying on these activities.

There is no fiscal impact with this RS but there will be a trailer bill to fund the investigations.

Senator Werk questioned the fiscal note statement; it was confusing. **Mr. Jagosh** said that passing this bill is not going to automatically appropriate monies to this effort. This bill does not make it a mandatory funding vehicle. **Senator Werk** commented that if it is anticipated that staff will be added, we should be talking about the cost of that staff.

Chairman McKenzie said that was a valid concern. One of the reasons the fiscal note appears as it does, is that they are seeking a funding mechanism that does not come from the general fund and would be a steady source of funding. The Statement of Purpose needs to be changed to clarify that funding will not come from the general fund.

Senator Werk commented that it seems this should be in the Judiciary and Rules Committee. **Chairman McKenzie** acknowledge the possibility that it will go there after printing.

MOTION: **Senator Davis** moved to send **RS 21925C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman McKenzie** passed the gavel to Senator Lodge. **Senator Lodge** announced that **RS 21729C1** will be presented by Chairman McKenzie.

RS 21729C1 **Chairman McKenzie** stated that **RS 21729C1** comes at the recommendation of the Christian Legal Society and the Ethics and Public Policy Center. This language was initiated due to some issues between a religious based student group and one of our public universities. The religious group was being treated differently from other groups based upon the religious nature of the group. According to Chairman McKenzie's information, the university was out of line with what other universities across the country are doing and was inconsistent with U. S. Supreme Court and Ninth Circuit law on the way you can treat student groups. **Senator McKenzie** requested a printing. The problem could go away by just printing this RS. The inconsistencies could also be taken care of by a change in policy at the university level.

MOTION: **Senator Davis** made a motion to print **RS 21729C1**. **Senator Fulcher** seconded the motion.

Senator Stennett asked, if there is a law prohibiting these activities, why are we pursuing this? **Chairman McKenzie** explained that it is not a law, it is court precedent. In the Ninth Circuit, one student group cannot be treated differently from the way other organizations are treated. The policy in Idaho is in violation of that court precedent. There will probably be litigation if something is not put in statute requiring that they respect the first amendment rights of the group.

The motion carried by **voice vote**.

PASSED THE GAVEL: **Senator Lodge** returned the gavel to Chairman McKenzie.

ADJOURNED: **Chairman McKenzie** noted that the last item on the agenda has been pulled to discuss some possible amendments. The meeting was adjourned at 8:15 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 13, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for January 21, 2013	Senators Winder and Werk
	Minutes for January 28, 2013	Senators Fulcher and Stennett
	Minutes for February 4, 2013	Senators Hill and Davis
GUBERNATORIAL APPOINTMENT:	The appointment of Neil Anderson to the Idaho Endowment Fund Investment Board.	
GUBERNATORIAL APPOINTMENT:	The appointment of Warren R. Bakes to the Idaho Endowment Fund Investment Board.	
GUBERNATORIAL APPOINTMENT:	The appointment of Fred Snook to the Idaho Racing Commission	
RS21721	To amend Chapter 4, Title 67, Idaho Code, to provide that the Legislative Council shall engage the services of a certified public accountant to conduct audits.	Jeff Youtz, Director, Legislative Services Office
HCR 0002	A Concurrent Resolution to commemorate the 100th Anniversary of the creation of Madison County.	Senator Hill

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 13, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. with a quorum present. The first order of business was to approve the minutes.

MOTION: **Senator Werk** moved to approve the minutes of January 21, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Fulcher** moved to approve the minutes of January 28, 2013. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Hill** moved to approve the minutes of February 4, 2013. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie welcomed Representative Neil Anderson to the Committee meeting.

GUBERNATORIAL APPOINTMENT: The appointment of Representative Neil Anderson to the Idaho Endowment Fund Investment Board (EFIB).

Representative Anderson stated that he has been an investment advisor for 25 years. During his tenure with Edward Jones (EJ), he had the opportunity to become a regional leader and eventually became a general partner. After retirement, he chose to enter politics and was successful in his run for the House. The intent of his appointment is to have a member of the House of Representatives (House) serving on the EFIB.

Chairman McKenzie asked, with your background managing individual accounts and overseeing others as you gained leadership and partnership at EJ, what unique skills do you bring to the EFIB that will lend themselves to this position.

Representative Anderson responded that at EJ they were typically dealing with larger sums of money at lower margins in terms of operating expenses but the net objective was the same. Whether it is a single investor or an institutional investor the goal is to get the highest possible return with the least possible risk.

Senator Werk asked if Representative Anderson was currently a member of the House and has it been a normal procedure for the EFIB to have a House member on its board? **Representative Anderson** stated that he is currently a member of the House and the EFIB requires a member from both the House and the Senate.

Senator Davis inquired as to whether this assignment deals with the issue that you claimed in Item 10 of the Gubernatorial Appointment Confirmation Information Form indicating that you lease state owned grazing ground. **Representative Anderson** replied that the topic was discussed during the interview process. **Senator Davis** then asked if, when giving advise to the land board in the event that this type of an issue comes up, have you thought about how you plan to deal with this conflict of interest? **Representative Anderson** stated that should there become a conflict, he would claim Rule 38 (H), which says that a conflict of interest exists but one can vote on the item in question.

Chairman McKenzie thanked Representative Anderson and introduced Warren R. Bakes

**GUBERNATORIAL
APPOINTMENT:**

The appointment of Warren Bakes to the Idaho Endowment Fund Investment Board.

Mr. Bakes advised the Committee that he had spent 33 years in the public school system at three different school districts serving as a principal, an assistant superintendant and as superintendant of schools. For the past 17 years he has been a faculty member of the University of Idaho in Coeur D'Alene. In that role, there was daily contact with teachers, principals and superintendents. His name was brought forth because an educator typically holds a position on the EFIB. **Mr. Bakes** added that he will be working in the public schools and higher education assisting with decisions on a variety of issues and will also be involved with the dispersion of funds.

Senator Siddoway asked if Mr. Bakes made his own personal investments and dealt with the facets of commodities. **Mr. Bakes** stated that he has personal investments plus he served for ten years on the Board of Directors of a medium size north Idaho credit union.

Senator Stennett asked him what motivated his decision to retire and go to work for Avista Utilities as a Resource Conservation Manager. **Mr. Bakes** stated that Avista recruited him. The state of Oregon adopted Proposition 13 causing schools to lose a great deal of money. The area utilities wanted to help offset the lack of funds by helping the schools reduce their rural energy costs. It was very successful in the state of Washington and Avista decided that they would try to do the same thing for all of the school districts in eastern Washington and northern Idaho. The company needed his expertise to help with the major revamping of those energy systems.

Chairman McKenzie thanked Mr. Bakes and welcomed Fred Snook.

**GUBERNATORIAL
APPOINTMENT:**

The appointment of Fred Snook to the Idaho Racing Commission (Racing Commission). **Fred Snook** introduced himself as a fourth generation Idahoan. His great-grandfather came to Salmon, Idaho in 1866 and the family has lived there since that time. Mr. Snook's background is in law, agriculture and horses. He is a Graduate of the University of Idaho Law School and has been licensed as an attorney for 42 years. He served as prosecuting attorney for Lemhi County for ten years and served as a state magistrate judge for fourteen years. After retirement, he was employed as the City of Salmon's attorney and as a public defender for Lemhi County and has held those positions for the last ten years. His family lost a portion of Main Street in Salmon due to a horse race in 1870 and the family has been in racing since that time. His grandfather and dad brought some of the first registered quarter horses to Lemhi in the 1940s. Growing up, his family raced about 100 registered horses in Idaho, Montana, Washington and California. He was also a licensed owner and trainer from 1976 to 2001. Presently, he does not own any race horses. He has managed the Salmon Select Horse Sale, Idaho's largest horse sale, for the last 41.

Racing in the west has been on a decline for the past twelve years. Racing in the state of Montana is almost extinct, but Idaho is making a rebound as indicated during the last year at Les Bois. This appointment is a fit with his background because he knows the people, the race tracks and what needs to be done.

Senator Davis asked about **Mr. Snook's** disclosure that, in 1977 while racing a friends horse at a Montana race, the horse won its race and then failed the post race test. He explained that the owner had treated the horse for a respiratory infection and the vet had injected antibiotics for the infection; then the horse was sent to the race. Part of the substance from that shot caused the horse to fail the post race test. As the trainer, he had to appear before the Montana State Racing Commission and consequently, was suspended from racing for 30 days.

Senator Davis asked if this suspension in Montana ever had an adverse impact on his license. **Mr. Snook** answered that a failed test is not uncommon in the racing world. He continued to be licensed in Montana, California, Washington and Idaho until 2001 when he retired from racing. **Senator Davis** asked for further clarification that the license termination in 2004 was voluntary and not as a result of any investigation. **Mr. Snook** replied that in 2002 his daughter died, his son was in sports in middle school and he chose to quit racing.

Senator Fulcher inquired as to the cause of the decline in horse racing. Are there things that should be changed to allow the racing industry to become robust again? **Mr. Snook** answered that there are a number of factors that have contributed to the decline in the industry. The intermountain states are dependent upon each other for a racing circuit. Owners would send their horses to Les Bois for the summer racing which ended in August. They would then take the horses to Montana. As the tracks shut down in Montana the Idahoans had no races where they could compete to finish the summer racing. Idaho Falls race track is starting to become very successful because it has an excellent track base. Some of the race tracks do not have a good base and the horses can be injured. If Idaho maintains horse racing, they will attract horses from other states where tracks have closed.

Senator Lodge stated that the horse racing business is still a \$40 million industry. Mr. Snook, do you have any current industry data that would include the industries (hay, feed, employment) that support racing? **Mr. Snook** replied that he did not have this information but stated that the racing industry can be a very large industry. His family's first race horse sales were about \$20,000; a few years ago they were \$400,000.

Chairman McKenzie thanked Mr. Snook for appearing before the Committee. He announced that the gubernatorial appointments would be voted on at the next meeting.

RS 21721

To amend Chapter 4, Title 67, Idaho Code, to provide that the Legislative Council shall engage the services of a certified public accountant to conduct audits.

Jeff Youtz, Director, Legislative Services Office, advised the Committee that the Legislative Council endorsed this change in the audit process at their November meeting. This bill makes two important changes in the procedures for the legislative branch's audit: the first moves the legislative branch from an annual audit to a biannual audit and the second change moves jurisdiction of the audit from the Board of Examiners back to the Legislative Council which is consistent with the judicial branch audit process. The audit requires many hours of time for the Pro Tem, House and the Legislative Services Fiscal Officer as well as the two Senior Legislative Auditors who assist in this audit every year. By holding the audit biannually, there will be a cost savings and reduction of personnel resources for the state.

Senator Hill asked for a clarification of the meaning of legislative branch. **Mr. Youtz** replied that the legislative branch includes the House, Senate, Legislative Services Office and the Office of Performance Evaluation. The audit is a very simple process where 95 percent is personnel costs and the rest is travel expenses.

MOTION: **Senator Hill** stated that he had a conflict of interest pursuant to Senate Rule 39 (H). **Senator Lodge** moved to send **RS 21721** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

HCR 02 A Concurrent Resolution to commemorate the 100th Anniversary of the creation of Madison County
Senator Hill stated that the bill is to commemorate the 100th anniversary of the creation of Madison County. The celebration will be held Monday, February 18, 2013 at which time **Senator Hill** would like to present this bill on the Senate Floor.

MOTION: **Senator Fulcher** moved to send **HCR 02** to the Senate floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Hill will sponsor the bill on the floor.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 8:50 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 15, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes of January 30, 2013	Senators Siddoway and Lodge
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Warren Bakes to the Idaho Endowment Fund Investment Board.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Neil Anderson to the Idaho Endowment Fund Investment Board.	
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the appointment of Fred Snook to the Idaho Racing Commission.	
GUBERNATORIAL APPOINTMENT:	The reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board. (Conference Call)	
GUBERNATORIAL APPOINTMENT:	The reappointment of Roy Decker to the Bing-Raffle Advisory Board.	
<u>RS21998</u>	Request to Print from the Local Government and Tax Committee regarding electronic transmission of assessment notices to the taxpayer.	Senator Winder
<u>RS21963</u>	Request to Print from the Commerce and Human Resources Committee regarding a new section to Idaho Code regarding health savings accounts for state employees.	Senator Thayn
<u>RS21874</u>	Relating to Initiative and Referendum Elections to address the balance between urban and rural voters in qualifying for the ballot.	Russ Hendricks, Idaho Farm Bureau Federation
PRESENTATION:	Page Graduation	Chairman McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 15, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present.

MOTION: **Senator Lodge** moved to approve the minutes of January 30. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Winder** moved to send the appointment of Warren Bakes to the Idaho Endowment Fund Investment Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to send the appointment of Neil Anderson to the Idaho Endowment Fund Investment Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Davis** moved to send the appointment of Fred Snook to the Idaho State Racing Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Rayelle Anderson who is being reappointed to the Bingo-Raffle Advisory Board (BAB) and asked her to discuss what activities have occurred since her last appointment, the workings of the (BAB) and how she sees it operating in the future.

Ms. Anderson explained that in the last couple of years the BAB has been reviewing the law and how non-profits are interpreting and understanding those laws. The interaction between the Idaho State Lottery Commission and the BAB has been very important and helpful. Going forward, the BAB will decide how to better educate non-profits throughout the state on awareness and fulfillment of the laws and regulations. They are currently performing some educational training on this subject for the smaller non-profits throughout the state.

Senator Fulcher asked Ms. Anderson if she sees room for improvement in the procedures moving forward. **Ms. Anderson** replied that the statutes were written 25-30 years ago and there could be some fine tuning with percentages and maybe some housekeeping issues could be addressed. BAB's goal going forward is to make the non-profits more aware of the rules and regulations. Most of the non-profits are adhering to the rules and have very few problems. The Board strives to become a better resource in the region.

Senator Siddoway asked Ms. Anderson to explain what the stipulations are as far as how much money the non-profit organization sponsoring the raffle or bingo can make from the game and how much is held for administrative costs. **Ms. Anderson** stated that 100 percent of all gaming proceeds that come into the non-profits follow a strict accounting process for accountability. The goal is to keep the administrative costs as small as possible; the maximum that can be spent on administrative fees is capped at 20 percent for bingo and slightly less for raffles. The goal is to have a game that returns the greatest amount to the charitable purpose. The bulk of the revenues must go to the charitable mission.

Chairman McKenzie thanked Ms. Anderson for her service and advised her that a vote on the appointment will occur at the next meeting.

**GUBERNATORIAL
APPOINTMENT:**

Chairman McKenzie introduced Roy Decker who is being reappointed to the Bingo-Raffle Advisory Board and asked him to discuss what has occurred since his last appointment, the workings of the BAB and how he sees it operating in the future.

Mr. Decker stated that at present, the BAB is reviewing the rules and regulations to refine them and make appropriate changes. One of his responsibilities on the BAB is to work with non-profits who are interested in a bingo game start-up. He checks the site and instructs the parties on the rules and regulations to put the gaming in place.

Senator Siddoway asked about some of the schemes that could be used to run one of these games. **Mr. Decker** recalled that about eight years ago, in Boise, a gamer was renting equipment from an unlicensed dealer; that is against the regulations. The game was shut down and the individuals running the gaming were put in jail. There is a need for more education about the law, processes and reporting.

Chairman McKenzie thanked Mr. Decker for his service.

**REQUEST TO
PRINT RS 21998**

Relating to Revenue and Taxation to provide certain assessment notices electronically to the taxpayer. This is a request to print **RS 21998** from the Local Government and Tax Committee.

Senator Winder explained that this bill allows a taxpayer, by a request to the assessor, to receive a valuation assessment notice electronically. This was brought to the legislature by the Ada County Assessor along with other assessors across the state.

MOTION:

Senator Fulcher moved to print **RS 21998**. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**REQUEST TO
PRINT RS 21963**

Relating to the Personnel System to establish a new section in Idaho Code regarding health savings accounts for state employees. This is a request to print from the Commerce and Human Resources Committee. **Chairman McKenzie** stated that this bill is from Senator Thayne and he was in committee that morning, but the request is for the bill to be returned to the Commerce Committee after printing.

MOTION:

Senator Fulcher moved to print **RS 21963**. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

RS 21874

Relating to Initiative and Referendum Elections. **Chairman McKenzie** introduced Russ Hendricks to present **RS 21874**.

Mr. Hendricks stated that **RS 21874** is identical to the RS that was presented to the Committee a few weeks ago with the exception of one change which is found on page 2, line 37. This version of the RS requires the signatures of 18 legislative districts rather than 22. In 1997 the legislature passed a law that says to qualify initiatives or referendums for the ballot, they would need the signatures of 6 percent of the registered voters in 22 of Idaho's counties. That law was subsequently challenged and the courts found that it was not appropriate to do it that way. However, the Ninth Circuit Court opinion stated that you could achieve the same ends by requiring the signatures by legislative district. **RS 21874** is making that change.

Senator Winder asked if this new **RS 21874** raises the standard and requires a higher percentage of legislative districts than it did for previous initiatives. Is that still the same? **Mr. Hendricks** answered that, no **RS 21874** provides for one-half of the legislative districts.

Senator Werk asked why the Farm Bureau is interested in altering the initiative process. **Mr. Hendricks** replied that the Farm Bureau is following up on the law that was passed in 1997 by the legislature. They felt it was appropriate to have a wider distribution of signatures across the state to meet the qualifications for an initiative or referendum to be put on the ballot. **Senator Werk** asked if this was related to animal rights issues. **Mr. Hendricks** responded that would be one of several concerns. **Senator Werk** asked for details about the problems with the current system; how many initiatives have we had; and, whether the state has had difficulties with initiatives on the ballot that would cause this type of action. **Mr. Hendricks** advised that he did not have the data available to answer these questions, but would be glad to supply that information.

Senator Werk asked if the court indicated whether this type of change should be made. **Mr. Hendricks** replied that the court said that the same end could be achieved by using legislative districts where it couldn't be done by counties. **Senator Werk** added that the courts did not advocate the position that Idaho should go this route, they only indicated that using counties was not appropriate. **Mr. Henderson** agreed.

Senator Davis spoke to the point that the decision of the Ninth Circuit Court entitled *Idaho Coalition United for Bears vs. Pete Cenarrusa* in 2003 did not have the issue in this RS squarely before them. They did, as Senator Werk suggested, strike down the standard that then existed that does provide dicta which is not binding on the court. They wondered why Idaho didn't look at this as a possible solution. This is a policy question. **Senator Davis** had some confidence that there will be judicial opportunity for review should the legislature adopt this approach. The ninth circuit or the trial court that may consider it, will consider the Idaho coalition case to be binding on them as they consider whether this meets constitutional or other standards.

MOTION:

Senator Fulcher moved to print **RS 21874**. **Senator Winder** seconded the motion.

VOTE:

Senator Werk advised that the fiscal note might not be as accurate as it could be and with this language this legislation is almost guaranteed to end up in court thereby causing the general fund to be impacted. In this instance, he certainly has had enough push back in his community to understand that there is some deep seated anger associated with these types of attempts to lessen the ability of the people to petition the government and to speak to the legislature through the initiative process.

The motion carried by **voice vote**. **Senator Werk** is recorded as voting **nay**.

PRESENTATION: **Chairman McKenzie** called Matti McDaniel forward for the page graduation presentation and to present her with a gift, a letter of reference from the Chairman and a letter of commendation signed by all members of the Committee expressing their appreciation for her service. **Chairman McKenzie** stated his appreciation for Matti and for her cheerful attitude and smile whenever he sees her. He also stated how helpful Matti has been to the Committee Secretary and the exceptional performance of her job. **Chairman McKenzie** asked what Matti will be doing the rest of this year and for the coming year. **Matti** responded that she will finish out school, complete her senior project so she can graduate, continue to work in sports medicine and she will be going to state conference in the summer. Next year she will be at Utah State University studying Human Body Movement and Development and hopefully, go to physician's assistant school after that.

ADJOURNED: There being no further business, the meeting adjourned at 8:35 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 18, 2013

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION:	Introduction of Page; Zachary (Zach) Baron	Chairman McKenzie
VOTE ON GUBERNATORIAL APPOINTMENTS:	The reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board.	
VOTE ON GUBERNATORIAL APPOINTMENTS:	The appointment of Roy Decker to the Bingo-Raffle Advisory Board.	
RS22043	Relating to the Condominium Property Act to revise provisions relating to the allocation of the percentage of ownership interest in a common area.	John Eaton, Idaho Association of Realtors
S 1074	Relating to the License to Retail Liquor Act to revise a provision for the issuance of a license for an equestrian facility	Senator Lodge
RS22052	Relating to clarification of code sections specifying the time frame for rate cases.	Chairman McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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Phone: 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 18, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present and welcomed the Committee.

MOTION: **Senator Siddoway** moved to send the gubernatorial reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board to the Senate floor with the recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Lodge** moved to send the gubernatorial reappointment of Roy Decker to the Bingo-Raffle Advisory Board to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 22043 Relating to the Condominium Property Act and presented by John Eaton, Idaho Association of Realtors.
Mr. Eaton explained that John Seiller, an attorney in Ketchum, brought a question regarding condominium property to Senator Stennett. Senator Fulcher and Representative Anderst along with the Realtors Legislative Committee reviewed the question and agreed there was an issue that should be addressed. **Mr. Eaton** described the process to form a condominium association and what is required by statute to be contained within the declaration or commonly known as the Covenants, Conditions, and Restrictions. One of the items included in that declaration is the "percentage of ownership interest in the common area which is to be allocated to each unit for the purpose of tax assessment."
Currently, square footage is used to determine the percentage of ownership in the common area for about 90 percent of the condominium developments. The proposed change would provide that either a square footage basis or a market value basis could be used to determine the percentage of ownership. The developer would make the original choice but when control is handed over to the association, they could change the basis at that time.

MOTION: **Senator Fulcher** moved to send **RS 22043** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

S 1074 Relating to the License to Retail Liquor Act was brought before the Committee by Senator Lodge.
Senator Lodge introduced Jim Bower, President of the Caldwell Night Rodeo, Curt Ruehl, Caldwell Night Rodeo (CNR) and Chris Smith, Retired Canyon County Sheriff. **Senator Lodge** also thanked her intern, Dane Johnson, who has been working on this piece of legislation.

Mr. Bower stated that the current law reads that 40 acres outside the city limits is required for a professional equestrian event to obtain a liquor license. **S 1074** would change that to 25 acres inside or outside the city limits. This would give the management of a facility more control over the operation of the facility. It would also allow them to maintain a budget that allocates donations to charities, scholarships and other recipients amounting to about \$100,000 annually. Alcohol is just one part of the whole professional event.

Senator Stennett shared her concern about opening up the licensing process to other independent entities. She asked how had they been operating in the past and how would this change help to operate the facility more efficiently? **Mr. Bower** explained that they have had a beer and wine license for 70 years. They were using another license in order to sell alcohol only to find out that it was not legal. They are not trying to do anything new, they just want to do it legally. They had two licenses in the same facility at the same time and that is not legal.

Senator Werk stated his curiosity about the history of this situation.

Senator Davis referred to page 2, line 43 of the bill. The wording indicates that the issuance would be to an equestrian facility and not an event; the acreage is being reduced from 40 acres to 25 acres; and, it was required to be outside the city limits and now it would be allowed to be in or out of the city limits. The facility would be given a license and they could operate it regardless of whether there was an equestrian event or not. **Senator Davis** questioned if his interpretation of the language was correct. **Mr. Bower** agreed with Senator Davis' interpretation. It would be beneficial if the facility had the license rather than use a catering permit where someone else would provide the alcohol and they would have control of the permit and the funds.

Senator Davis asked if the current practice is to rely on the caterer's license. **Mr. Bower** said that last year they used a caterer's license which was a short term fix when they found out that there was two licenses being used. They voluntarily gave up their license for the 2012 rodeo. **Senator Davis** restated that the CNR gave up their beer and wine license in order to be in compliance and used the caterer's license. The intent of the CNR is to restore the beer and wine license and, in addition, instead of having a caterer to provide a liquor license for an event, CNR wants to have a liquor license that would be available 365 days a year. **Mr. Bower** said it would be available 365 days although the rodeo event is seven days and then there are two or three other fund raisers during the summer where they sell beer only.

Senator Davis stated that this may meet the needs of this community. To another community that can meet these statutory standards or may look at these statutory standards as a basis for getting a liquor license, there would be a liquor license to all events within a year regardless of whether or not they are an equestrian event. **Mr. Bower** responded that it is not just the acreage or in or out of the city limits. There is also the requirement that there must be seating for 6,000 people, it must be a professional equestrian event and it must be a minimum of three days along.

Senator Lodge reiterated that it would be seven days for the liquor license. **Mr. Bower** added that there are a couple of fund raiser events during the summer where they only sell beer. **Senator Lodge** confirmed that the only time that hard liquor would be sold is during the CNR. **Mr. Bower** concurred and added that they only sell hard liquor for three days of that seven day event.

Senator Lodge asked for a description of the security that is in place for the CNR. Mr. Bower outlined the location and duties of the security personnel. All identification is checked and without identification, no one can buy alcohol, no matter what their age. The Caldwell Police Department always has six to ten officers on the premises at all times.

Chairman McKenzie asked for other questions from the Committee. Being none, he asked Sheriff Smith to comment on the security at the CNR as it relates to the sale of alcohol and liquor. **Sheriff Smith** said that he is associated with the CNR Board but is not a member. He has attended the CNR events throughout his life, seen it grow and its effect on the community. It is a revenue generator for the city of Caldwell by bringing in vendors and professional cowboys from all over the country. Caldwell counts on the CNR for the revenues it generates. Caldwell Police are constantly in attendance at the rodeo and there is also private security hired by the CNR Board. The activities are very well monitored to control the sale and use of alcoholic beverages at this event.

Senator Lodge stated that she has been associated with CNR for many years and knows about the good things that they do. She has not observed any past problems. This must be a professionally sanctioned rodeo lasting for at least three days; the facility must have at least 6,000 seats; and, there would be a minimum of 25 acres of rodeo grounds. **Senator Lodge** requested that this opportunity be continued for the City of Caldwell. This could also cover any other professional rodeo such as Filer, Lewiston or Idaho Falls. There are very few professional rodeos and they bring a lot of money into the community.

MOTION:

Senator Lodge moved to send **S 1074** to the Senate floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Davis accepted the statements from both Senator Lodge and Sheriff Smith; they both carry a great deal of credibility on this issue. What is being proposed is not a Caldwell solution, it is a statewide piece of legislation. Testimony has indicated that there is a remedy available for the limited number of days that CNR operates; a catering license and the reinstatement of the beer and wine license. What we are asked to consider today is an expansion of the right to license a facility not just the event. The proposed statutory modification has broader implications statewide through adjustments in acreage and location. **Senator Davis** stated that he cannot support this legislation, not just because of the expansion of the law, but, more importantly, he is not a fan of selling hard liquor at family events.

Senator Winder remembers the old rodeo grounds and the old fair grounds and the times when there was drinking and fighting and, at that time, questioned how much less security would be needed if alcohol was not involved. However, this doesn't take away the tradition and contribution to the economy of the community. There are concerns about how far this can be expanded but 6,000 seats and a professional rodeo qualification does limit the use of such a license. Although he is not a fan of public drinking considering those issues and the social costs, he will probably support this bill for the benefit of the community.

The motion carried by **voice vote**. Senator Lodge will sponsor the bill on the Senate floor.

**INTRODUCTION
OF PAGE:**

Chairman McKenzie introduced the committee page for the second half of the session, Zachary (Zach) Baron from Madison High School. **Chairman McKenzie** said his achievements during his high school career include his involvement in high school debate where he has won many awards as well as being the captain of his debate team. He takes Advanced Program government classes. Outside school he has been involved in scouting and is working on Eagle Scout projects. **Chairman McKenzie** asked Zach to tell about his Eagle projects and what he plans to do after school.

Zach said that his Eagle Scout projects range from painting fire hydrants to blood drives. After high school, he plans to go to Brigham Young University (BYU) Idaho for one semester, then pursue a two year Latter-day Saints mission. He will go to BYU Provo after his mission and then on to a law degree.

Senator Winder asked Zach why he plans to go to BYU Provo instead of BYU Idaho. **Zach** responded that BYU Provo was best fitted to meet his goals.

Chairman McKenzie and the Committee welcomed Zach.

**PASSED THE
GAVEL:**

Chairman McKenzie passed the gavel to Senator Lodge.

RS 22052

Relating to the clarification of code sections for rate cases presented by Chairman McKenzie.

Chairman McKenzie explained that these code sections have been in statute for 100 years. We are celebrating the 100th year since the inception of the Public Utilities Commission (PUC) this year.

The two sections, §§ 61-622 and 623, set the procedures and time frame for modifying rates. Two Supreme Court cases confirmed that they are internally inconsistent and unclear.

These revisions include current practices of the PUC, clarify the language and make the two sections consistent by putting them both into 61-622 and repealing 61-623. The language has been reviewed by the PUC and shared with the investor utilities and rate payer groups. There doesn't seem to be any objections and it achieves the goal to clarify existing practice without changing the statute in any substantive way.

Senator Werk asked for confirmation that this had been reviewed by the PUC. **Chairman McKenzie** replied that the changes are supported by Commissioner Paul Kjellander and Don Howell, Chief of Staff for the PUC. They will testify at the hearing. **Senator Werk** said it would be helpful to get a copy of the Supreme Court rulings for review. **Chairman McKenzie** agreed to provide those rulings.

MOTION:

Senator Werk moved to send **RS 22052** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Senator Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED:

Chairman McKenzie announced that the Committee will meet in the auditorium on Wednesday because the two marijuana issues that will be before the Committee. Being no further business, the meeting was adjourned at 8:50 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW02
Wednesday, February 20, 2013

SUBJECT	DESCRIPTION	PRESENTER
S 1058	Relating to the Sale of Keg Beer to revise the size of a keg of beer that a dealer or wholesaler is allowed to sell.	Senator Patrick
SCR 112	A Senate Concurrent Resolution to oppose the legalization of marijuana for any purpose in the State of Idaho.	Senator Winder
SJM 101	A Senate Joint Memorial seeking to notify the governing bodies of the federal government to take appropriate action to ensure that the federal drug-free policy is upheld in all states.	Senator Winder

NOTE:

Due to the interest expressed in SMJ 101 and SCR 112, the committee hearing will be held in the auditorium; WW02.

The committee will reserve some time for those who sign up prior to the meeting. If you wish to sign up to testify, please email the committee secretary at sstaf.senate.idaho.gov with the following information:

- Name, address and contact number.
- Identify which bill you are interested in: "SMJ 101" or "SCR 112" or "both".
- The organization you represent, if any.
- Whether you support or oppose the measures.

Please anticipate that testimony may be limited to three minutes depending on the number signed up to testify.

Individuals will still be able to sign up to testify the morning of the meeting.

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 20, 2013

TIME: 8:00 A.M.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present and welcomed the Committee.

S 1058 Relating to the Sale of Keg Beer to revise the size of a keg of beer that a dealer or wholesaler is allowed to sell, presented by **Senator Patrick**.

Senator Patrick called the Committee's attention to Section 23-1007, Idaho Code, which reduces the size of a keg of beer that a dealer or wholesaler is allowed to sell to a consumer at his licensed premises, from seven and three-quarters gallons to five gallons. The smaller size keg is more popular and the change would promote Idaho business, be revenue neutral and would not affect the General Fund.

Mr. Jeremy Pisca, Risch-Pisca law firm representing Idaho Beer & Wine Distributors Association, testified in support of **S 1058**. Mr. Pisca provided an overview of how the three tier system worked between manufacturers, distributors and retailers with two exceptions: 1) When a distributor sells a keg and 2) Breweries selling under 30,000 barrels. The Association supports this change because it will not affect the three tier system since it involves only keg sales to individuals that are not licensed and these types of sales are heavily regulated.

Ms. Sheila Francis, President, Idaho Brewer's Guild, spoke in support of updating the code to allow wholesalers to conduct business in a way that is legal and benefits brewers and their customers.

MOTION: **Senator Werk** moved to send **S 1058** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie addressed the next order of business: **SCR 112** and **SJM 101**, reviewed the testimony process and time limitations that were due to the significant amount of public interest and the large number of individuals wishing to testify. **Chairman McKenzie** then recognized Senator Winder for introduction of both bills.

SCR 112 A Senate Concurrent Resolution to oppose the legalization of marijuana for any purpose in the State of Idaho.

SJM 101 A Senate Joint Memorial seeking to notify the governing bodies of the federal government to take appropriate action to ensure that the federal drug-free policy is upheld in all states.

Senator Winder presented **SCR 112** and **SJM 101** explaining that they were brought forward by the Association of Idaho Cities (AIC). The joint memorial deals with a request by Idaho that the federal government enforce federal law relating to drug trafficking; especially interstate trafficking of drugs. **SCR 112** was patterned

after a resolution developed at AIC's annual meeting requesting the legislature to make a statement opposing any possible efforts to legalize marijuana in the state of Idaho.

John Evans, Mayor of Garden City, and current President of the AIC, stated AIC's support of **SCR 112** and **SJM 101**. AIC has a very large anti drug task force with membership made up of city officials across the state of Idaho that is concerned with the negative impact of substance abuse on local communities. Legalization of marijuana in any form is a threat to communities, on the roads, in the workplace and in the classroom. The financial cost is significant and the cost in human suffering is tragic. It is also important to discuss the message that is being sent to our youth; that marijuana use is acceptable. AIC has compassion for those with true medical need and the drug task force wants to work with them to address those needs. **Mr. Evans** deferred to Elisha Figueroa, Administrator, Governor's Office of Drug Policy.

Ms. Figueroa first established what these bills will and will not do. **SCR 112** will express the opinion of the Idaho legislature that marijuana legalization for any purpose is not good for Idaho and the majority of its residents. It does not enact a law to ban medical marijuana from the state of Idaho. **SJM 101** will urge the federal government to enforce federal drug law reflective of international treaties which the United States entered into agreeing that marijuana will not be legalized. Idaho citizens are being harmed by laws passed in neighboring states allowing the use of marijuana for medical purposes. Marijuana use by teenagers has skyrocketed causing reduced mental development and could lead to mental illness. The concurrent resolution and joint memorial are reflective of what Idaho citizens want as shared through the AIC. Other organizations such as the Idaho Chiefs of Police Association and the Community Coalitions of Idaho are requesting the legislature to protect us from what they see happening in other states as the result of drug legalization.

Jeff Lavey, Idaho Chiefs of Police Association, stated the support of the membership for **SCR 112** and **SJM 101**. They oppose all forms of legalization of marijuana in the state of Idaho. Mr. Lavey went on to quote several statistics that show how harmful marijuana is to the human body and the harm it causes in adults and children as well as the societal issues.

TESTIMONY:

Those testifying in support of **SCR 112** and **SJM 101**:

Cady Snell, Mayors Youth Advisory Council and Youth Representative for Anti Drug Coalition

Major Kevin Hudgens, President, Idaho State Police

Dr. David McClusky, Idaho Board of Medicine

Holly Koole, Idaho Prosecuting Attorneys Association

Marianne King, Director, Drug-Free Idaho

Nick Chaffin, Bonneville Youth Development Council

Corporal Casey Hancuff, Boise Police Department

Darren Taylor, Mayor, City of Middleton

Darren Hurst, Meridian Police Department

Jewell Mapes, Mayor's Anti Drug Coalition

The following testified as private citizens:

Ron Harriman

Payton Raples

David Potts

Sam Lyon

Primary arguments in support of **SCR 112** and **SJM 101**:
Greater health risks and aggression tendencies.
Negative impact on Communities.
Increased cost to the workplace and decreased productivity.
Risky social behaviors.
Impaired driving.
Proliferation of drug trafficking organizations.

Those testifying in opposition to **SCR 112** and **SJM 101**:

Monica Hopkins, Executive Director, American Civil Liberties Union (ACLU), urged the Committee to vote no on **SJM 101** and **SCR 112** because Idaho should be allowed to decide its own drug policy without interference from the federal government and should focus more on local law enforcement priority. **Ms Hopkins** compared making marijuana illegal to the prohibition of alcohol stating that there was not less crime but more; cost of monitoring was greater, not smaller. **Ms. Hopkins** emphasized that the federal government should not adhere to the federal government's failed drug policy which amounts to war on the marijuana user. She related some statistics supporting her statements. If Idaho's drug laws shifted to a more rational approach based on abuse and addiction prevention and education and other public health considerations, dollars could be saved and then the focus could be on the criminals who are in our communities. Idaho should focus on its own drug policies.

Senator Davis asked Ms. Hopkins if marijuana consumption was pro family. **Ms. Hopkins** responded that enforcement of marijuana laws for low level, non violent offenders causes high incarceration rates and that it is anti family by breaking up families.

Senator Hill asked if the ACLU's position is that all or some illegal drugs should be legalized, or were you specifically referring to marijuana. **Ms. Hopkins** answered that alcohol is a drug. The ACLU's position has been to work for legalization of marijuana and in this case, the ACLU's position is that this is bad public policy that the possibility of decriminalization of some types of things that end up putting people in high incarceration units. **Senator Hill** asked if Ms. Hopkins' comments only referred to marijuana versus the term "drugs". Is it an overall philosophy of legalizing more drugs across the nation or is it restricted to marijuana? **Ms. Hopkins** answered that the ACLU's position with marijuana is that it should move toward legalization. With respect to other drugs, the ACLU has worked at the federal level, for fair and just sentencing programs by adjusting disparity in substances such as crack cocaine and cocaine use to ensure that those sentences are fair; not pushing for legalization of all drugs, but fair sentencing.

Senator Winder asked if the ACLU used the federal system to protect what it thought was the rights of individuals. **Ms. Hopkins** agreed that they do use the federal system to enforce and she would not agree that the ACLU would not continue to do that. However, enforcement of marijuana laws is done 95 percent of the time by local and state officials and the federal government has made it clear that the effort is not a high priority.

Lindsey Rinehart, Executive Director, Compassionate Idaho
Jennifer Bennett, Idaho Moms for Marijuana (pseudonym Sarah Frank)
Payton Rebholz, Idaho Drug Free Youth

The following testified as private citizens:

Tim Teater
Christine Taylor
Rachel Raue
Gari deBoard
William Esbensen
Matt Wilcox
David Benjamin Hall
David Potts
Cody Ternes
Brian Lumas
Darek Acheson
Carl William Edens
Theresa Knox

Primary arguments in opposition to **SCR 112** and **SJM 101**:
Provides pain relief benefits and other medical efficacies.
Alternative to overcrowded jails.
Relieves overworked law enforcement.
Reduces gang-related crime.

Monte Stiles, Mayors Anti-Drug Coalition, concluded testimony in support of **SCR 112** and **SJM 101**. He said his years with state and federal drug task force agencies convinced him of both the destructive influence of marijuana and the effectiveness of education. He said this legislation will help combat the pro-marijuana organizations when they target Idaho with a massive amount of money. He said in Washington state alone, \$6 million was spent on pro-drug legalization. **Mr. Stiles** urged the Committee to vote in favor of **SCR 112** and **SJM 101**.

Senator Winder reiterated that laws are not being changed with these two pieces of legislation but it does open up conversation which is appropriate. Idaho will continue to be targeted by pro-marijuana groups and this is a way to be proactive.

MOTION: **Senator Hill** moved to send **SCR 112** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senator Werk commented that it was a good day for Idaho to have this discussion but said he believes this legislation lacks specificity and that much of the testimony seemed to be contradictory. He also said there has been no reference to personal responsibility and, for these reasons, he would not vote in favor of the legislation.

The motion carried by **voice vote**. Senator Werk was recorded as voting no.

MOTION: **Senator Hill** moved to send **SJM 101** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. Senator Werk was recorded as voting no.

ADJOURNED: There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 10:32 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Jeanne' Clayton

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 22, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS22062</u>	A Concurrent Resolution to commend Idaho companies who voluntarily disclose potentially harmful substances in household products or avoid them entirely.	Senators Johnson and Buckner-Webb
GUBERNATORIAL APPOINTMENT:	The reappointment of Andrea Wassner to the Idaho Commission on Human Rights.	
GUBERNATORIAL APPOINTMENT:	The reappointment of Joe B. McNeal to the Idaho Commission on Human Rights.	
<u>RS21986</u>	Relating to a financial interest to codify the independence between the three-tier system to ensure that none of the tiers are unduly influenced by the others in the marketing of beer products.	Jeremy Pisca, Idaho Beer and Wine Distributors Association
<u>RS22002</u>	A Transportation Committee request to print legislation that provides that the authority having jurisdiction over its roads may designate routes for loads up to 129,000 pounds using the criteria established by the Idaho Transportation Department.	Jeremy Chou
PRESENTATION:	Department of Environmental Quality (DEQ) for an update on vehicle emission testing.	Curt Fransen, Director, DEQ

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 22, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present.

RS 22062 Concurrent Resolution to Commend Idaho Companies Who Disclose Harmful Substances. **Senator Johnson** said this bill asks for the state to recognize the harmful chemicals that are found in household products. Environmental studies have shown that toxic substances are playing a role in the prevalence of certain diseases; increases in cancer, birth defects, and difficulty in conceiving and maintaining a pregnancy. There are links to the exposure to these toxic substances to the most vulnerable which is the fetus. We have reviewed the State of Washington "List of Chemicals of High Concern to Children" and have obtained good research on these chemicals. By this resolution, the Idaho State Legislature encourages companies to avoid potentially harmful substances and substitute safe alternatives in household products whenever feasible.

Chairman McKenzie recognized Senator Buckner-Webb as a co-sponsor.

MOTION: **Senator Winder** moved to send **RS 22062** to print and refer it to the germane committee. Seconded by **Senator Fulcher**. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Andrea Wassner who has been reappointed to the Idaho Commission on Human Rights (Commission) and asked her to discuss her role on the Commission, activities, and what future activities may come before the Commission.

Ms. Wassner stated that the Commission reviews cases that not resolved through mediation or conciliation. Cases are reviewed on a quarterly basis along with monthly calls to review cases and make decisions.

Senator Winder asked what kind of issues come before the Commission. **Ms. Wassner** stated that generally, there are discrimination cases, but also sexual, age, gender, race; everything covered in Idaho statute.

Senator Lodge noted that Ms. Wassner had not updated her resume since 1985, yet you have served on this Commission since 2005. Would you tell a little about yourself? **Ms. Wassner** stated she has had the same job for 27 years.

Senator Davis asked if, during the years that she has served on the Commission, were there issues that were problematic under the statute. **Ms. Wassner** answered she does support the "add the words" legislation. **Senator Davis** asked if there were others and **Ms. Wassner's** response was "no."

Senator Davis asked if, as a Commissioner, do you follow statute as it is written or do you apply principles you believe Idaho law should include such as "add the words." **Ms. Wassner** answered that she follows the statute.

Senator Siddoway inquired about the number of cases that comes before the Commission in a year, how long does it take to resolve those cases and how many times does the Commission meet. **Ms. Wassner** replied that the Commission has face to face meetings quarterly; monthly they have a panel telephone call to decide cases; and each time they meet they have 20 to 30 cases. **Senator Siddoway** asked if there were penalties and fines for cases that have been resolved. **Ms. Wassner** answered that when the Commission assumes a case there are recommendations made as to whether to find cause or no cause in the case and then they look see whether they agree or disagree. The Commission tends to agree with the staff because they do a good job. When the cases come to any type of litigation, the Commission has no part in that action.

GUBERNATORIAL APPOINTMENT:

Chairman McKenzie introduced Joe B. McNeal who has been reappointed to the Idaho Commission on Human Rights and asked him to discuss what has occurred since his last appointment, the workings of the Commission and how he sees it operating in the future.

Mr. McNeal stated that this will be his second term. The Idaho Department of Labor is an outstanding and hard working team headed by Roger Madsen. The Commission is independent within the Idaho Department of Labor. The Commission staff is second to none led by Administrator, Pamela Parks, who faces demanding changes and challenges head-on with courage, conviction and a high sense of professional pride. The Deputy Attorney General, Jeanne Goodenough, demonstrates a superior knowledge in civil rights law which is the cornerstone to the Commission's success. Commission President is Estella Zamora.

Senator Fulcher asked Mr. McNeal how many years he had served on the Commission. **Mr. McNeal** replied that he had served three years. **Senator Fulcher** inquired if he had seen a trend towards any certain type of cases. **Mr. McNeal** responded that there are more sexual harassment cases coming before them.

Senator Davis asked if any statutory modifications to the Human Rights Act are made, do you believe the Idaho Legislature should consider making the Commission's job easier? **Mr. McNeal** answered that he would like to see the investigators have some subpoena power to make questioning easier. **Senator Davis** asked if there is currently a problem in acquiring the information that the Commission needs to perform their duties. **Mr. McNeal** stated he did not think there is a problem but having the subpoena power would assist them. The investigators do an outstanding job processing these cases before they come before the Commission.

Senator Winder stated that the legislature tries to recognize and protect individuals rights. Are their similarities in the Commission's dealings as they in process their case work? **Mr. McNeal** explained that he supports the add-on language which will assist in resolving the cases by performing a thorough and fair investigation.

Senator Winder asked what impact will the add-on language have on your current case load. **Mr. McNeal** explained that the add-on language would assist the Commission to cover everyone. The add-on language will pinpoint a case that might come before the Commission. **Senator Winder** inquired

about current cases; what percentage of them would fall under add-on language and would there be a significant increase in cases if the words were added? **Mr. McNeal** stated that there would be some increase in cases and that some cases would be defined differently using this language.

RS 21986

Relating to a Financial Interest in the Marketing of Beer presented by Jeremy Pisca, Attorney, Risch and Pisca Law Firm representing the Idaho Beer & Wine Distributors Association.

Mr. Pisca explained that the three-tier system is designed to keep the manufacturing tier (brewer) independent from the distribution and retail tier. There is a strict prohibition on financial interest between brewers, distributors and retailers. There is no strict prohibition between breweries owning distributorships. The Idaho Beer and Wine Distributors Association would like to clarify that law, as many states have done. The legislation before you is a simple clarification stating that no brewer, other than those that are exempted out under the small brewer exception which currently exists in Idaho Code, may have a financial interest in a distributors business. This legislation mimics the aid to retailer statute; Idaho Code § 23-1033.

Senator Siddoway asked for a definition of a small brewer. **Mr. Pisca** explained that in 23-1003, subsections d, e, and f, a small brewer is defined as a brewer that brews 30,000 barrels of beer or less. A brewer that produces less than 30,000 barrels can own a brew pub license, an on-site or off-site retail license and they can self distribute. This legislation will not affect small brewers that are already exempted out of the three-tier system. **Senator Siddoway** asked what volume the largest brewer is producing in the state? **Mr. Pisca** said the largest Idaho brewer in the state, Grand Teton, brews 12,000 barrels annually.

Senator Fulcher asked what problem is to be solved through this bill? **Mr. Pisca** stated this a potential future problem that should be prevented. Currently in Idaho there are no brewery owned branches. There has been larger brewers in other states who have actively gone out and sought to purchase distributorships. In those cases, when the larger supplier comes to distribute through your family-owned business, it creates a hardship for that smaller distributor.

MOTION:

Senator Stennett moved to send **RS 21986** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 22002

Authority having Jurisdiction Over Its Road May Designate Routes for Loads. **Chairman McKenzie** explained that this is a print request from the Transportation Committee.

Jeremy Chou, Givens & Pursley stated that in the state of Idaho, truckloads are limited to 105,000 pounds with some exceptions. Thirty-five routes in southern Idaho are designated as part of a pilot project that will enable the state, specifically the Idaho Department of Transportation (ITD), to conduct a ten-year study on the maintenance and impact of those heavy trucks carrying up to 129,000 pounds. ITD came out with a study in 2013 that determined that there was no significant maintenance impact or affect on the roads and no significant safety issues. This bill allows authorities to designate roads that would allow up to 129,000 pound loads within their jurisdiction so long as they use the criteria that is established by the ITD.

Senator Stennett requested Mr. Chou to elaborate on the criteria that would be used. **Mr. Chou** said the criteria must be established by ITD. The legislation states that engineering standards to maintain the roads must be used as well as standards for bridges, and public safety. **Senator Stennett** asked if there was a component for permitting fees to keep the roads repaired. **Mr. Chou** responded that there is no fee attached to this legislation.

MOTION: **Senator Fulcher** moved to send **RS 22002** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: The Department of Environmental Quality's Update on the Vehicle Emission Testing Program.
Chairman McKenzie stated that this presentation is related to legislation that was passed last session. The Committee requested that the Department of Environmental Quality (DEQ) review the Vehicle Emission Testing Program and then report back to the legislature with recommendations for modification or termination of that Program.

Curt Fransen, Director, DEQ, stated that the Inspection and Maintenance Program (I/M) was implemented pursuant to Idaho Code § 39-116B. **Mr. Fransen** introduced three DEQ staff members: 1) Tiffany Floyd, Air Quality Administrator; 2) Dave Luft, Air Quality Manager, DEQ Boise Regional Office, DEQ Vehicle Emission Program; and 3) Rick Hardy, Discipline Lead for the Modeling and Risk Analysis Group in DEQ's Technical Services Division. Rick leads a group of scientists and engineers that, among other duties, perform emission modeling and risk analysis.

Requirements of the legislation provide for annual and five-year reviews of the program. Specifically, Section 5 of the statute provides, "The Department shall annually review the result of the I/M and that the review shall include among other things the estimated emission reductions obtained." Section 6 of the statute, amended last year by S 1231, requires that every five years beginning in 2013 the Director shall review air quality data and make recommendations to the legislature for their determination whether the program should be continued, modified or terminated. On January 7, 2013, the DEQ provided reviews and recommendations to the legislature by sending a letter and report to Speaker Bedke and President Pro Tempore Hill. (See Attachment 1)

Mr. Fransen briefly reviewed the events that led to the DEQ's creation of the I/M under this statute.

- In 2005 the legislature passed the Treasure Valley Air Quality Counsel Act. Under that act, Governor Kempthorne appointed the Treasure Valley Air Quality Counsel.
- In 2007 the Treasure Valley Air Quality Plan was completed and submitted to the legislature.
- In 2008 Idaho Code § 39-116B was enacted and signed into law.
- In 2009 the DEQ went through the negotiated rulemaking process and those rules were adopted by the Idaho Board of Environmental Quality and subsequently approved by the legislature.
- In 2009 DEQ signed a joint powers agreement with Ada County which had an existing I/M.
- In 2010 DEQ implemented the program in Canyon County and Kuna.

The purpose of the statute is to establish an I/M to control air pollution emissions from vehicles and air sheds that were approaching nonattainment with applicable health-based air quality standards by establishing an I/M in areas that are nearing the point where air quality standards are not being met. There are National Ambient Air Quality Standards (NAAQS) for criteria pollutants that include carbon monoxide, nitrogen oxides, particulates, sulfur dioxide, lead and ozone. This statute provides for an I/M in areas that are at risk of exceeding air

quality standards and are close to nonattainment as set forth in the Clean Air Act (CAA). It is in the effort to avoid that nonattainment designation and the requirements of the CAA that is behind the statute.

If the valley were to reach the nonattainment designation set by the Environmental Protection Agency (EPA), there would be more stringent permitting requirements for major and minor sources of air pollution. Additional monitoring, reporting and pollution control requirements for facilities that pour pollutants into the air would be required. In addition, the DEQ would have to submit a compliance attainment plan to the EPA which would include control measures designed to bring the area back into attainment with the federal quality standards. The local areas would have to implement those control measures until they reached attainment then plans would have to be prepared and adopted to maintain attainment for a twenty year period. All of those plans, once they are reviewed and approved by EPA, become federal standards. The consequences would have a potential negative impact on the Treasure Valley economy.

The purpose of this review of the I/M is to determine whether or not it is still required by Idaho Code § 39-116B. This statute provides for two tests as criteria for the implementation of the I/M: 1) An air shed, as defined by DEQ within a metropolitan statistical area, that has ambient concentration design values equal to or greater than 85 percent of an NAAQS; and 2) The Department determines that air pollutants from motor vehicles constitute one of the top two emission sources contributing 85 percent to the design value. Both of these prerequisites were determined to exist in the Treasure Valley in 2008 therefore requiring the implementation of a vehicle I/M in Ada and Canyon counties.

Do these two prerequisites continue to exist and therefore require an I/M Program in the counties. Do the counties have an ambient concentration value equal to or above 85 percent? (See Attachment 1 Charts and Graphs)

Chairman McKenzie asked if, at this point, is the entire program still in effect because, out of all these particulates in your charts, only ozone is above the 85 percent level and is still less than the five parts per billion? **Mr. Fransen** replied yes, as of the first criteria provided by the statute, 85 percent of the maximum ozone remains at 68 parts per billion and the 2012 number will be around 67 parts per billion. They are still over the 85 percent level established by the statute for the Treasure Valley. The EPA is estimating that the new ozone standard will be between 60 and 70 parts per billion; the new standard will go into effect next year. **Chairman McKenzie** asked, if the ozone standard is set above where the valley's statistics fall, what will be the effect? **Mr. Fransen** stated that as the ozone standard drops to 67 based on the 2012 design value, it will push the valley closer to nonattainment.

Senator Winder inquired about the impact of the federal land fires on the valley's air quality. **Mr. Fransen** stated that in 2011, based on measurements regarding two wildland fires in the surrounding area, DEQ found no increases in ozone during those events. In 2012, despite the area experiencing one of the worst wildland fire smoke impacts, they found no direct correlation to the ozone levels. The fires decrease the amount of sunlight that is available to convert the precursors to ozone, so it is a positive rather than a negative effect. **Senator Winder** asked about the impact the smoke had on our attainment or nonattainment status. **Mr. Fransen** replied that it does not have an effect on the nonattainment status because smoke is classified as an exceptional event.

Mr. Fransen concluded with recommendations from the DEQ for the I/M stating that statutory triggers continue to be met. The Treasure Valley is still within 85 percent of the ozone design value. Motor vehicles continue to be one of the top two sources of pollutants that contribute to the ozone design value. Pollution reductions are exceeding the original expectations. Counterbalancing this good news is that the EPA is expected to lower the ozone NAAQS level.

Based on these factors DEQ's recommendation is that the Treasure Valley I/M continue for the foreseeable future. DEQ recommends that the legislature approve DEQ's pending rule amendments related to this program. These pending rules will decrease the regulatory burden on the program by allowing for an extension in appropriate circumstances. For instance, military personnel out of the area for a period of time and by allowing citizens to have their vehicles tested and repaired at the same business. DEQ will continue to explore further modifications to the program to decrease the burdens of the program while trying to maintain its effectiveness. If the ozone levels in the Treasure Valley continue to decrease, and if the ozone NAAQS standard does not decrease too much, there may be a significant buffer to reduce or phase out the program. The information that will be collected in the next year or two will determine if that is possible. The five-year contract with Systech to implement the program in Canyon County and Kuna will expire in 2015 at which time the DEQ will evaluate the program.

Chairman McKenzie stated that Canyon County's interactions with DEQ's I/M has been disliked by the community from the start. The program was not well received by the citizens and is viewed as burdensome and expensive.

Mr. Fransen explained that when DEQ impacts so many individuals there is bound to be repercussions.

Senator Winder noted that the statistics show emissions have significantly improved. What percentage of the fleet in the valley is having an impact on the air quality? **Mr. Fransen** responded that approximately 10 percent of the vehicles that are tested fail the test. After repairs, the vehicle is retested and most of those are in compliance.

Senator Siddoway said that the pollutants in the valley have a direct affect on the health of the people that reside in the air sheds. It seems as soon as soon as attainment is reached, then the criteria changes; will EPA always be raising the bar?

Mr. Fransen said that the emission testing program is only one part in reaching overall attainment requirements. There have been a number of other factors related to attainment such as the reduction in the ozone design value and lowering the federal standards for air and water quality. There is scientific evidence that the new standards are necessary for health reasons. **Senator Siddoway** asked if there are financial penalties associated with not meeting the EPA standards. **Mr. Fransen** explained that the immediate effect would be more stringent air quality regulations then permit requirements would become more difficult and there would be more pollution control measures implemented. DEQ would have to come up with a plan to bring the valley back into compliance. There is no financial impact that he is aware of but potentially, transportation funds could be affected.

Chairman McKenzie asked what factor the I/M plays in comparison to other factors in the reduction of emissions. **Mr. Fransen** referred to the one number he cited based on the model reductions that DEQ recorded (3.5 percent for NAAQS and 9 percent volatile organic compounds) that points to how much the air shed has been improved through the I/M.

Chairman McKenzie stated that other factors have been removed so that the 3.5 percent is all attributable to the program. **Mr. Fransen** concurred.

Chairman McKenzie stated that he is frustrated with the program but not with those who administer the statutory requirements. DEQ has done what they can to reduce the burden on citizens and he thanked them for their presentation this morning.

ADJOURNED: There being no further business, the meeting adjourned at 9:20 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary
with the assistance of Carol Deis

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 25, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	The reappointment of Andrea Wassner to the Human Rights Commission.	
VOTE ON GUBERNATORIAL APPOINTMENT:	The reappointment of Joe McNeal to the Human Rights Commission.	
H 0042	Relating to Counties to revise the boundary descriptions of Gooding, Jerome, Lincoln and Minidoka Counties.	Rep. Maxine Bell and Tony Poinelli, Idaho Association of Counties
RS22088	A request to print from the Local Government and Taxation Committee to provide that the abandonment of sheep and/or related duties by an employee of a range sheep operation, or persons aiding or abetting such activities, shall be guilty of a misdemeanor.	Stan Boyd, Idaho Wool Growers Association
RS22039	A Senate Concurrent Resolution rejecting a certain rule of the Idaho Public Utilities Commission relating to the Telephone Customer Relation Rules.	Chairman McKenzie
RS22040	A Senate Concurrent Resolution rejecting certain rules of the Department of Administration governing the exterior of state properties in the Capitol Mall and other state facilities.	Chairman McKenzie
RS22042	A Senate Concurrent Resolution rejecting certain rules of the Department of Administration governing the Idaho State Capitol exterior.	Chairman McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 25, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. **Chairman McKenzie** moved **H 42** to the top of the agenda and welcomed Chairman Maxine Bell from the House of Representatives Appropriations Committee.

H 42 **Chairman Bell** explained that in 1919, Minidoka, Jerome and Gooding Counties were part of Lincoln County; then the three counties were carved out. At that time, the session laws were correct but the code was not. Last spring the Tax Commission discovered that the session laws and the code were not the same; the county borders were incorrect in code. This had nothing to do with the taxing districts but it needed to be changed. **Chairman Bell** introduced Toni Poinelli, who represents the Idaho Association of Counties. They support the change. **Chairman Bell** asked for the support of the Committee.

Senator Winder asked if any neighbors were going to be impacted by this change. **Chairman Bell** responded that it doesn't run through anyone's barn, it is just in the code incorrectly.

MOTION: **Senator Stennett** thanked Chairman Bell stating that two of the counties are in her district and moved to send **H 42** to the Senate floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to send the gubernatorial reappointment of Andrea Wassner to the Idaho Commission on Human Rights to the floor with the recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Joe McNeal to the Idaho Commission on Human Rights to the floor with the recommendation that he be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

REQUEST TO PRINT RS 22088 A request to print **RS 22088** from the Local Government and Taxation Committee to be presented by Stan Boyd, on behalf of the Idaho Wool Growers Association.

Mr. Boyd explained that the Idaho range sheep industry is a labor intensive operation dependent on workers coming in from foreign countries. The wool growers bring the workers in from other countries legally and have an investment of up to \$3,000 to do so. Within a short period of time, some of

those workers abandon their duties. It is the intent of this bill to make it a misdemeanor if that worker leaves his contract without proper notification to the employer. There is a process in place so that worker can legally withdraw from his contract. This legislation would also make it a misdemeanor for any person who aids and abets that worker. When those workers abandon their contract, they become one of the 11 million illegal immigrants within the United States.

Senator Werk asked if there was any other job description in Idaho where quitting a job was a misdemeanor. **Mr. Boyd** could not answer that question.

MOTION:

Senator Hill moved to send **RS 22088** to print and requested that the letter from the Senate Local Government and Tax Committee be withdrawn.

Senator Lodge seconded the motion. **Senator Werk** noted that, for the record, the withdrawal of the letter should also be applied to the February 25, 2013 agenda.

Senator Siddoway declared his conflict of interest under Senate Rule 39 H. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Chairman McKenzie passed the gavel to Senator Lodge.

RS 22039

A Senate Concurrent Resolution rejecting a certain rule of the Idaho Public Utilities Commission.

RS 22040

A Senate Concurrent Resolution rejecting certain rules of the Department of Administration governing the exterior of state properties in the Capitol Mall and other state facilities.

RS 22042

A Senate Concurrent Resolution rejecting certain rules of the Department of Administration governing the Idaho State Capitol Exterior.

Chairman McKenzie explained that the three RSs reflect the Committee's action and the same is reflected in the approved minutes with respect to the completed rules review. Each Concurrent Resolution reflects those rules that were approved as well as those that were specifically rejected.

Senator Lodge asked if Chairman McKenzie would like to do all three RSs at the same time. **Chairman McKenzie** deferred to the Committee on that decision. **Chairman Lodge** asked for the will of the Committee.

MOTION:

Senator Davis moved to send **RS 22039**, **RS 22040**, and **RS 22042** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Senator Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED:

Chairman McKenzie noted that there are interesting issues coming up for the next few meetings; thanked the Committee; and, adjourned the meeting at 8:19 a.m.

Senator McKenzie, Chairman

Twyla Melton, Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 27, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>HCR 5</u>	A Concurrent Resolution to commemorate the Idaho Territorial Sesquicentennial by providing that the Legislative Auditorium be named the Abraham Lincoln Auditorium.	Representative Batemen and David Leroy
<u>RS22090</u>	A Joint Resolution to present an amendment to the Idaho Constitution to amend the definition of state militia to eliminate age and gender discrimination.	Senator Rice
<u>RS21682</u>	Relating to the State Lottery Commission to provide authority to enter into agreements for operation and promotion of joint lottery games with any foreign countries or any combination of states	Jeff Anderson, Director, Idaho State Lottery
<u>RS21618</u>	Relating to Lottery Prizes to revise procedures for withholding and offset of lottery prize winnings for satisfaction of outstanding child support and state taxes.	Jeff Anderson, Director, Idaho State Lottery
<u>RS21623</u>	Relating to Bingo and Raffles to allow changes that were recommended by the Office of Performance Evaluations to reduce unnecessary regulatory burden on nonprofit organizations and the Idaho Lottery staff.	Jeff Anderson, Director, Idaho State Lottery
<u>RS22094</u>	Request to print from Education Committee to authorize public post secondary institutions to operate public charter high schools.	Senator Winder
<u>RS22095</u>	Request to print from Education Committee to provide for the education of children at Northwest Children's Home.	Senator Winder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 27, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:02 a.m. with a quorum present. He welcomed the Committee and introduced Representative Bateman and former Attorney General Dave Leroy to present **HCR 5**.

HCR 5 A Concurrent Resolution to commemorate the Idaho Territorial Sesquicentennial. **Representative Bateman** yielded time to former Lt. Governor, David Leroy.

Mr. Leroy reported that in 2009 a \$50,000 legislative appropriation funded the Lincoln bicentennial celebration; Lincoln was born in 1809 in Kentucky. There was \$250,000 in private matching donations. A book entitled "Lincoln Never Slept Here" was published and captured public imagination, especially in those other Lincoln states where we made an outrageous but defensible claim that Idaho, more than any other state, is related to Abraham Lincoln. A traveling exhibit was created during this time that took the Lincoln story, chronology and a selection of artifacts across the state and was seen by approximately 300,000 people.

At age 54, Lincoln signed the bill creating Idaho Territory making 2013 a sesquicentennial; the 150th anniversary of the creating of Idaho territory by Lincoln on March 4, 1863. It is little known that Idaho was a part of freeing the slaves and winning the civil war. Lincoln intended Idaho as a giant blocking maneuver where slavery would never be introduced into the Territory. When Idaho Territory was created it amounted to a mass of 310,000 square miles, from the Washington-Oregon border to the Dakotas, north to Canada and south to Utah. Idaho helped finance the civil war through their mining efforts of gold and silver for coinage to back treasury bills.

This resolution is an important part of kicking off the sesquicentennial celebration. The Idaho Historical Society has put together a no-cost celebration of branding and encouragement for every community to get out and host local events to recognize the significance of this celebration; even the reconstruction of the original capitol building in Lewiston scheduled for rededication on July 10, the approximate date when William Wallace, the first governor, picked Lewiston for the first capitol. This resolution is an important part of a planned program taking place on Monday.

Senator Hill expressed his appreciation and gratitude on behalf of the Committee to **Mr. Leroy** for his historical link in keeping President Lincoln and Idaho alive and vibrant to our community. **Mr. and Mrs. Leroy's** donation of a portrait of President Lincoln will grace the hall outside the Senate Auditorium for many years to come.

MOTION: **Senator Davis** moved to send **HCR 5** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senator Davis** will carry **HCR 5** on the Senate floor.

RS 22090 A Joint Resolution to amend the Idaho Constitution.

Senator Rice stated that currently, within the definition of the state militia, the language refers to able-bodied males between the ages of 18 to 45. The resolution would change the wording to able-bodied persons 18 and older. Many of the State's citizens are concerned with the national course of action banning certain types of firearms. The concept is the result of the Heller decision by the United States (US) Supreme Court relating to the Second Amendment. In a five to four majority decision, the court held that the right to keep and bear arms is an individual right belonging to each citizen of the US. The minority cited several opinions over many years that referred to it as a right belonging to state militias. There are decisions in the US Supreme Court that refer to, and are based on, whether particular types of weapons have a military purpose.

This legislation will allow the state of Idaho to protect the individual right and interpose the fact that the federal government does not have the right to disarm the militia of the several states and would allow Idaho to protect the Second Amendment.

Senator Werk asked if everyone over the age of 18 would be a member of the militia in Idaho. If the US Supreme Court decided that it was the militia, then would every person in Idaho 18 or older be allowed to bear arms? **Senator Rice** explained that under constitutional principles and under decisional law, every male 18 and older already does form part of the state militia. **Senator Werk** asked why would you limit this to 18 or older? **Senator Rice** answered that the US Supreme Court has recognized the age group of 18 or older.

Senator Stennett noted that the current language "shall be enrolled in the militia" is being changed to "to constitute." What directs the parameters of this change in definition? **Senator Rice** explained that the difference in the language recognizes the militia as it exists in the state constitution and founding principles rather than just looking at an enrollment statute that the federal government passed. The states defined who they would call up for the state militia rather than defining it for the general purposes of the Second Amendment. **Senator Stennett** asked for more clarity on the definition of the stated actual enrollment which suggests a call up to duty. **Senator Rice** explained that anytime you do a call-up for active duty for any kind of military force, you would have to go through a process of enrollment. The amendment recognizes that this moves from just a process for enrolling to recognizing the state militia for the Second Amendment in its traditional form.

MOTION: **Senator Fulcher** moved to print **RS 22090**. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

RS 21682 Relating to the State Lottery Commission to provide authority for operation and promotion of lottery games.

Jeff Anderson, Director, Idaho State Lottery Commission (Commission), stated the Commission is seeking authority to enter into agreements for the operation or promotion of joint lottery games with any foreign countries or combination of states. Current law allows the Commission to join in multi-jurisdictional games such as Powerball or Megamillions. When the Lottery was established it also included the ability to run gaming based on sound business principles. Over the last two and one half years the lottery industry has seen opportunities to consider offering draw games such as Powerball or Megamillions to include Canadian, United States and European jurisdictions.

RS 21682 only provides for consideration to join in these games if the decision was based on sound business principles. This does not expand gaming in Idaho, it simply offers the Commission the ability to consider additional opportunities.

Senator Hill stated that the current law gives the Commission specific authority to enter into certain types of commitments and contracts. There is a reason for the language in the legislation to give specific authority not general authority to do whatever the Commission liked. With this additional authority in **RS 21682**, is there anything that you cannot consider? **Mr. Anderson** stated that this bill deals specifically with draw games such as Powerball or Megamillions; it would not expand gaming or allow the Commission to do other play styles. The bill simply states that, right now, you can join a game with Canadian jurisdictions or lotteries but gives the Commission the authority to consider a world game if it became available. **Senator Hill** asked what types of jurisdictions are restricted with this addition. **Mr. Anderson** replied that they did not specifically name the United Kingdom or France. Any foreign country is included with this change.

MOTION: **Senator Davis** moved to return **RS 21682** to the sponsor. **Senator Fulcher** seconded the motion.

Senator Werk commented that this RS broadens the authority of the Commission to negotiate with Canada or a foreign country and assumes that the Commission would be judicious in their approach to any type of lottery draw games.

SUBSTITUTE MOTION: **Senator Werk** moved to print **RS 21682**. **Senator Stennett** seconded the motion.

Senator Werk said if the RS is printed the Committee could have a discussion on whether the authority might or might not be too broad for the Commission. **Senator Hill** spoke against the substitute motion saying that it would be ingenuous of the Committee to lead the sponsor to think that we would be in favor of expanding gaming for the purpose of producing greater jackpots.

The substitute motion failed by **voice vote**.

Chairman McKenzie restated the motion to return **RS 21682** to the sponsor. The motion carried by **voice vote**

RS 21618 Relating to Lottery Prizes to revise procedures.

Mr. Anderson stated that this legislation deals with lottery withholding and offsets for monies owed to the state for Health and Welfare or taxes. In fiscal year 2012, the Commission collected offsets for the state of \$35,444 for Health and Welfare and \$13,389 for taxes due to the Tax Commission. This bill will clarify the existing statutory procedure and will not change existing practice or procedure. The lack of clarity in code caused the Commission to be sued by a player who was surprised by the offset. They believe this clarity will be good public policy.

MOTION: **Senator Davis** moved to print **RS 21618**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 21623 Relating to Bingo and Raffles to allow recommended changes.

Mr. Anderson said this bill deals with charitable gaming in Idaho. There are a number of issues that was recommended by the Office of Performance: 1) Structure; 2) Bingo; and 3) Raffles.

Senator Davis pointed to page 3, subsection (9). The RS proposes to strikeout the language; Why was it put in and why is it now being struck? **Mr. Anderson** said he was not sure why (9) was placed in the legislation but it has been determined that the "Holiday Christmas Tree Fund-raisers" are auctions not raffles. The lottery has no authority over auctions. **Senator Werk** asked for clarification of the language on page 15, subsection (6). **Mr. Anderson** stated 67-7715 addresses vendors that supply bingo paper and electronic bingo machines to charitable gaming operators. This provides for a different set of rules when the sanctions could be on vendors to charitable gaming licensees.

MOTION: **Senator Winder** moved to print **RS 21623**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 22094 **Senator Fulcher** stated that **RS 22094** and **RS 22095** are unanimous consent requests to print from Senator Goedde, Chairman, the Education Committee.

MOTION: **Senator Fulcher** moved to send **RS 22094** and **RS 22095** to print. **Senator Hill** seconded the motion.

Senator Winder provided a history on these RS's stating that when former Senator Stegner was appointed to the University of Idaho position, he was in the middle of trying to resolve a problem with the funding for the Northwest Children's Home School in Lewiston. As a result of Senator Stegner's departure from the Senate, he asked **Senator Winder** to continue to help with the Children's Home. These two RS's have a longer term solution and he would like to get them printed and on to the Education Committee.

Chairman McKenzie declared a conflict of interest pursuant to Rule 39 (h) since he is on the Board of the Syringa House which is part of the Northwest Children's Home.

The motion carried by **voice vote**.

ADJOURNED: There being no further business, the meeting adjourned at 8:54 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Carol Deis

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 01, 2013

SUBJECT	DESCRIPTION	PRESENTER
Minutes:	February 1, 2013	Senators Davis and Werk
	February 6, 2013	Senators Hill and Stennett
	February 11, 2013	Senators Lodge and Fulcher
GUBERNATORIAL APPOINTMENT:	The reappointment of Roger L. Jones to the Idaho Lottery Commission.	
S 1118	Relating to a financial interest to codify the independence between the three-tier system to ensure that none of the tiers are unduly influenced by the others in the marketing of beer products.	Jeremy Pisca, Idaho Beer and Wine Distributors Association
S 1108	Relating to Initiative and Referendum Elections to address the balance between urban and rural voters in qualifying initiatives or referendums for the ballot.	Russ Hendricks, Idaho Farm Bureau Federation
S 1079	Relating to Internet Crimes Against Children to create an Internet Crimes Against Children Unit in the Office of the Attorney General to aid in the investigation and prosecution of offenders.	Paul Jagosh, Fraternal Order of the Police
RS22107	Relating to Aeronautics to establish provisions relating to restrictions on the use of unmanned aircraft systems.	Senator Winder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 01, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:01 a.m. with a quorum present.

MOTION: **Senator Siddoway** moved to approve the minutes of February 1, 2013. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Winder** moved to approve the minutes of February 6, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Lodge** moved to approve the minutes of February 11, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced Roger L. Jones who has been reappointed to the Idaho Lottery Commission (Commission) and asked him to discuss what has occurred since his last appointment, the workings of the Commission and how he sees it operating in the future.

Mr. Jones stated that he has seen the Commission grow from sales of less than \$100 million when he was appointed 17 years ago to this year's sales of \$185 million. The Commission employs 47 people and approximately 1500 vendors sell products throughout the state; those vendors make five percent on their sales plus bonuses. The profits generated by the Commission go back to the state. Last year they contributed \$41.5 million which was divided up between education and the permanent building fund.

Senator Lodge questioned Mr. Jones about the amount the Commission spends on advertising. **Mr. Jones** stated that the law stipulates that three and one-half percent of gross sales can be spent on advertising and they are always below that percentage.

S 1118 Relating to a financial interest to codify the marketing of beer products.

Jeremy Pisca explained that this bill closes a loophole that allows breweries to own distribution branches in Idaho except for microbreweries brewing 30,000 barrels or less; they are already exempt from the three-tier system. Microbreweries, under present legislation, can be their own retailer and distributor. This bill is about protecting Idaho jobs, businesses and clearly delineates the lines between the three-tier system. It is important to note that there is not a single brewery-owned branch in Idaho. This legislation codifies the current status.

Mr. Pisca presented a power point presentation which gave a picture of what the three-tier system looks like. The three-tier system promotes responsible consumption, community safety, and balances competition and regulation while maintaining an orderly marketplace. The distribution wholesaler tier is the tax

collection arm for Idaho. The idea of the three-tier system is to keep each tier independent from one another along with the goal of facilitating state and local decision making about alcohol. It created a framework for taxation and prohibited the tied house relationships between manufacturers and retailers by creating a distribution tier. **Mr. Pisca** provided a brief history about prohibition that led to the establishment of this system.

The Alcohol Beverage Commission (ABC) relies heavily on the beer distributors to be the de-facto law enforcement agency. They are the middleman between suppliers and retailers to ensure an orderly marketplace. Finally, the three-tier system helps ensure that no one tier grows so large that it can out-muscle regulators or any other portion of the tiers.

Senator Davis asked if there was a brewery owned branch in Idaho? **Mr. Pisca** explained there has been one within the last 15 years. Coors was a brewery owned branch wholly owned by the Coors Distributing Company. Coors was an American brewing company 15 years ago; now it has merged with Miller becoming Miller-Coors Brewing based out of Canada. Anheuser-Busch was America's largest brewing company up until 2008; it is now a foreign company, Anheuser-Busch InBev (ABI), the largest beer brewer worldwide.

Senator Davis asked if a distributor wanted to terminate a relationship with the wholesaler with cause, could they do so? **Mr. Pisca** responded that anytime a beer distributor wanted to sell any assets, there have always been willing buyers other than brewers. Strict adherence to the three tier system is necessary so that it does not collapse.

Mr. Pisca stated that the bill has been brought before the Committee at this time to avoid a problem later. ABI maintains nearly 50 percent market share in the United States and nearly 26 percent market share worldwide. Part of ABI's strategy has been to acquire as many distributorships as it deems reasonable (Attachment I - Financial Analysis of ABI). The ABI financial analysis explains why the Idaho distributors are worried as shown on page 1, paragraph 3. **Mr. Pisca** outlined the contents of the financial analysis.

Mr. Pisca said that Idaho is not alone in trying to close down this loophole; Wyoming, Illinois, Nebraska, Wisconsin and Louisiana (Attachment II) have closed the branch loophole. Except for Missouri, home of a major Budweiser Brewing Facility, those states had a combined favorable vote of about 88 percent to close this loophole.

The language in **S 1118** tracks directly with language that you will find in 23-1033 (Attachment III). The proposed bill is one paragraph stating that the exception provided for in section 23-1003 (f) allows the small brewer to self-distribute. Idaho law clearly says they are able to get a wholesale license in support of the three-tier system. Attachment III shows the code section that Idaho has had in place for years which bans the financial interest between brewers, distributors and retailers using a replication of that language.

Mr. Pisca distributed two bills from other states that have killed this loophole. (Attachment IV and V). Act No. 155 from the State of Louisiana stated that the "Commission shall not issue a wholesale dealer's permit to a person or his spouse possessing a manufacturer's permit." ABI has no branches in Louisiana and continues to thrive under the three-tier system.

Mr. Pisca stated that since ABI took over the Anheuser-Busch, company-wide, headcount has been reduced by more than 40 percent. Missouri lost 1500 jobs. In acquiring the branch in Oklahoma City, 30 people lost their jobs. This legislation will protect Idaho's jobs, businesses and codifies the status quo in Idaho today.

Senator Winder asked Mr. Pisca to clarify how this bill would protect Idaho businesses rather than restricting the ability to have a broader market for selling their businesses; does it restrict the ability of an owner to sell a business? **Mr. Pisca** explained that these are family legacy businesses and are generational. When ABI has gone into an area and purchased a distributorship, there is a wholesale firing of staff then those same people must reapply for their jobs. Owners are slightly restricted but only to one small segment of possible buyers. He has never seen a situation that there was not some beer distributor that was not willing to purchase another beer distributor, if it came up on the market. ABI is the only one we are removing from the buying equation. If 95 percent of your product comes from ABI, the bargaining position becomes nonexistent.

TESTIMONY:

Shiela Francis, representing the Idaho Craft Brewers, spoke in support of the legislation. Large brewing conglomerates have made it clear that they intend to consolidate their businesses across the country when allowed by law. This will allow the bigger breweries to control a brand or leverage the current distributors to carry their brands exclusively. This would leave craft brewers out of the equation. When one brewing conglomerate controls almost 50 percent of the market, that is significant leverage and power. Craft brewers are about 6 percent of the market by volume, so they are already at a significant disadvantage for market access.

Ken McClure, representing (ABI), spoke against this legislation. ABI believes in the three-tier system and finds great value in it. **Mr. McClure** believes that the proposed legislation will weaken the three-tier system rather than strengthen it. This isn't a bill that would prohibit a brewer from influencing or coercing a distributor to sell to the brewer. This is a bill that says a willing seller is denied access to a willing buyer in the free market. There nothing that indicates that a problem exists when a brewer owns a distributorship. Once the stock is owned in the distributorship the requirements for distribution are the same. The wholesaler who is not owned by a brewer has to meet the same requirements as a brewer that owns the wholesaler branch. This bill has nothing to do with Idaho jobs. It has more to do with the desire to continue consolidating ownership of wholesalers in Idaho.

The state has had three wholesalers in Idaho who have transferred ownership in the last ten years. All three were purchased by other wholesalers. ABI does not sell beer in Idaho and only two people own the entire rights to distribute ABI products in the state. This bill is to try to protect wholesalers from competition.

Mr. McClure gave an example of a wholesalership changing ownership: When a wholesaler puts a business up for sale, the buyer must possess the money to purchase a very expensive company. ABI's principle interest is in making sure that whoever buys that wholesalership is competent to sell beer to ensure their distributors achieve the maximum financial potential. ABI will match the offer that the selling wholesaler has from anyone who does not know how to sell beer and will sell the product themselves as a distributorship or they will find someone who can buy the company and run the business well. ABI would be denied that right by this legislation.

Senator Davis asked if, when a sale is made by an ABI distributor, would ABI's agreement require the purchaser to assume that distribution line and are there provisions to terminate such an agreement? **Mr. McClure** said that there are provisions of the approval of a successor and ABI has the ability to terminate based on certain conditions that essentially deal with breaches of contract such as the loss of a license. **Senator Davis** asked if the agreement provided ABI

with the ability to terminate the contract with some reasonable notice in the event ABI lost confidence in the wholesaler, the market share dropped or if ABI felt another wholesaler would be a more valuable distributor for their products? **Mr. McClure** answered that the contract could not be terminated on those terms. ABI could terminate in the case of an inept wholesaler resulting in declining sales but they may not terminate the wholesaler because they have a declining market share or they are under-performing.

Mr. McClure explained that ABI has a program provides capital to a qualified, knowledgeable individual so they could acquire an operation. Under the ABI Investment Capital Corporation, ABI becomes a partner and then the buyer can buy them out over time. In order to secure their interest, ABI takes an equity position in the distributorship. It is a good way to facilitate a transfer of a wholesalership when you have someone who has great sales and business operation skills but does not have the capital. This legislation will prevent ABI from helping those distributors.

Senator Davis asked if this was an Article 9 type security interest, would this bill preclude your client from having an effective remedy if they were the financier.

Mr. McClure stated that Article 9 would be prohibitive under this statute. Line 14, states that ABI may not have any financial interests which, Mr. McClure believes, would include a loan secured by a security interest.

Mr. McClure concluded by stating that ABI has no intention of owning a distributorship in the state. This legislation is about economic disparity between big versus small companies. The legislature provides in statute in Idaho Code § 23-1033 (a) that distributors may not use leverage to do certain things. ABI would not oppose the language in a bill stating you may not use leverage to coerce or influence an owner of a wholesalership to sell that wholesalership to the brewer. ABI is not trying to influence people to sell to them. ABI is making sure that when they do have a transaction, it is processed in a way that is optimal to their business interests. This bill is about the use of the legislature to create an economic advantage by saying that the brewer cannot buy but the current distributors can buy.

Dave Kangas spoke in opposition to **S 1118**. This legislation is an attempt to control competition restricting distributorships for ABI in Idaho.

In conclusion, **Mr. Pisca** noted that there are now three distributorships for ABI products in Idaho; at one point it was many. ABI's business model has been to force consolidation and exclusivity. Beer distributors are incentivized to forgo all other beer brands and focus exclusively on ABI products. When that happens it forces consolidation. Title 23 governing franchise laws, set out when and to whom a beer distributor can sell. A beer distributor is not allowed to even transfer their distribution business unless they have given notice to the brewery and the brewery gives written approval to the transfer.

Senator Davis stated that the Committee cannot determine an industry fight between ABI as a distributor and the wholesaler. The Committee's job is to set a public policy that applies across the board from small industries to larger industries. In the event Mr. McClure's client decides to terminate a distributor relationship or they have an Article 9 interest, how does this statute impact the remedy until they find a successor if their business is closed and they have no vehicle to the retail market.

Mr. Pisca responded that, under any franchise agreement, there is always an ability to give notice of defect in performance and always an ability to effect a cure. ABI still has the ability to approve a distributor before they come on board has the ability to stop the transaction. There are remedies on both sides. The legislation is a further clarification of three-tier system.

Senator Hill asked what percent of the beer and wine distributors in Idaho do your associates represent and what percentage of your members express support for this legislation? **Mr. Pisca** answered that they represent all of the distributors in the state with the exception of the small brewers, who self-distribute. The membership voted unanimously for this legislation.

S 1108

Russ Hendricks, Idaho Farm Bureau, stated **S 1108** relates to a law that was passed in 1997 requiring signatures from six percent of registered voters in at least 22 Idaho Counties, provided that the total number of signatures is at least six percent of the registered voters statewide. The law was struck down by the courts because Idaho Counties varied greatly in population so it did not provide for equal treatment of voters. The Ninth Circuit Court's ruling suggested that Idaho could achieve the same end without violating equal protection by basing a geographic requirement on districts with equal population, such as legislative districts. **S 1108** would require the signatures of six per cent of the registered voters in each of 18 legislative districts provided that the total number of signatures is at least six per cent of the registered voters statewide.

Senator Stennett stated that since the year 2000 there have been 54 initiatives circulated and only four qualified for the ballot. None of those initiatives had any impact on the Idaho Farm Bureau; why is the Farm Bureau bringing this bill forward? **Mr. Hendricks** replied that there are a number of organizations that are interested in correcting the law in a way the courts would find acceptable.

Senator Werk said that there have been attempts to clamp down on initiatives. Is there something wrong with the initiative process or voter's decision to place referendums on the ballot that requires this legislation? **Mr. Hendricks** explained that there has been increasing urbanization since 1997 and this legislation is to ensure that one populace area would not be able to drive an agenda across the state. **Senator Werk** referred to Line 24 which adds "and legislative districts." Each signature sheet shall contain signatures of qualified electors from only one county and one legislative district. If this is shifting from counties to legislative districts, why are you using counties if you are focusing on legislative districts? **Mr. Hendricks** explained that the county clerk will be verifying the signatures on a county by county basis.

Senator Davis asked if Mr. Hendricks could compare other states in the region or nationally that have adopted this type of legislation. **Mr. Hendricks** gave statistics for neighboring states: 1) Montana has a geographic requirement that requires five percent of the voters in each of 34 out of 100 legislative representative districts within the state; 2) Wyoming's state constitution requires 15 percent of those who voted in the proceeding general election from two thirds of their counties; 3) Utah requires 10 percent of voters in 26 out of 29 senate districts; and 4) Nevada is 10 percent of the voters in each of their four congressional districts.

Chairman McKenzie Referred to the National Conference of State Legislatures Signature for Initiative Proposals (Attachment A). Out of 24 states that have initiatives, 12 of those have some geographic requirement; some by county, legislative district or congressional district. The legislation before you is less restrictive than other states.

TESTIMONY:

The following people spoke in opposition to **S 1108**: (Their written testimony is included in minutes)

Ann Olden

Dave Kangas

Monica Hopkins, American Civil Liberties Union (ACLU) of Idaho

Lindsey Rinehart, Compassionate Idaho (oral testimony only)

Anne Nesse, (written testimony only)

The reasons were: That only a very small number of the attempted initiatives have made it onto the ballot; There is not a problem; The legislation is designed to restrict individual freedoms, the voting process and the constitutional guarantee of checks and balances; Voting is a fundamental right under the Fourteenth Amendment; The proposed legislation creates a significant burden and may violate or dilute an individual's First Amendment right to vote; and, The restrictions could potentially wind up with six percent of the overall state but not six percent from each district.

Senator Siddoway stated his concern about rural citizens not having an equal opportunity regarding the ballot. The current method puts them at a disadvantage. There might be other ways to equalize urban and rural votes for an initiative other than this legislation.

Senator Stennett asked Ben Ysursa, Secretary of State, if he believed the current law is flawed.

Mr. Ysursa stated that the Secretary of State office has taken a neutral position on this legislation. In 1997, the geographic distribution requirement was put in for 22 out of the 44 counties. In its opinion, this is a policy decision by the legislative branch. Judge Windmill reversed the 1997 statute based on the "one man one vote" principle because of the uneven population within the counties. As a point of reference, there were 30 districts out of the 35 that were six percent or more on Proposition 1 in 2012. It is very tough to get initiatives right now and it is easy to understand the geographic distribution argument. It has a better chance of being upheld by going to legislative districts which are, by law, fairly even in population.

Senator Stennett asked if there is a real need to change the legislation. **Mr. Ysursa** stated that some of the changes in the 1997 legislation were very positive. This legislation has more legally defensible attributes by reducing that number of districts down to 18 and going with legislative districts equalize the population.

Further discussion of this bill was postponed until the next meeting on March 4, 2013.

(S 1118) MOTION: **Senator Davis** moved to refer **S 1118** to the 14th Order for possible amendment. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 22107

Relating to Aeronautics of Unmanned Aircraft Systems.

Senator Winder stated that this is a bill concerning unmanned aircraft and asked for the Committee's support to print the bill.

MOTION:

Senator Hill moved to print **RS 22107**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, the meeting adjourned at 10:20 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
with the assistance of Carol Deis

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 04, 2013

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	To vote on the reappointment of Roger L. Jones to the Idaho Lottery Commission.	
RS22144	Relating to the Local Planning Act to provide clear decision-making criteria and a process of review to ensure protection of private property rights and due process.	Senator Tippets
S 1029	Relating to Codifier and Technical Corrections to Idaho Code to provide for the correction of errors found in names, grammar and punctuation as identified by the Legislative Services staff.	Katharine Gerrity, Legislative Services Office
H 0055	Relating to the Idaho Telephone Solicitation Act to conform Idaho's statute governing Idaho's No Telephone Solicitation List to regulations governing the National Do-Not-Call Registry which has been designated as Idaho's list.	Jim Clark, Frontier Communications and Bill Roden, Century Link
S 1078	Relating to the addition of a new section 33-107D, Idaho Code, to prohibit public universities from discriminating against religious student groups.	Bruce Skaug
S 1079	Relating to Internet Crimes Against Children to create a unit in the Office of the Attorney General to aid in the investigation and prosecution of offenders. (Carried forward from the March 1 agenda.)	Paul Jagosh, Fraternal Order of the Police
CONTINUATION OF S 1108	Relating to Initiative and Referendum Elections to address the balance between urban and rural voters in qualifying initiatives or referendums for the ballot.	Russ Hendricks, Idaho Farm Bureau Federation
RS22132	A Senate Concurrent Resolution honoring five Idaho servicemen who have given the ultimate sacrifice during the past year.	Senator Davis

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

Sen Winder

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 04, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:01 a.m. with a quorum present.

MOTION: **Senator Siddoway** moved to send the reappointment of Roger L. Jones to the Idaho Lottery Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

RS 22144 Relating to the Local Planning Act to provide clear decision-making criteria and a process of review to ensure protection of private property rights and due process.

Senator Tippets explained that **RS 22144** will resolve concerns that decisions rendered pursuant to the Local Land Use Planning Act (LLUPA) have failed to address clearly expressed decision criteria. Some decisions have caused jurisdictional conflicts with state or federal agencies and have brought about a need for expensive and time-consuming appeals. **Senator Tippets** said amendments to LLUPA would require specific standards to overlay zoning districts and prohibit overlay districts from causing regulatory taking; Forbid abrogation of health district, state or federal jurisdiction by local ordinance; Require that written land use decisions expressly address approval decision criteria; and, Provide an expeditious reconsideration process to allow affected persons to contest a final decision before a judicial appeal.

Specifically, **RS 22144** amends Idaho Code § 67-6511 to provide that overlay zoning districts have specific standards; Idaho Code § 67-6522 provides that in no event shall the governing board by local ordinance enact provisions that abrogate the statutory authority of a public health district, state and/or federal agency; Idaho Code § 67-6535 enumerates express standards regarding the Local Planning Act, to provide procedures for reconsideration; and Idaho Code §§ 31-1425 and 31-3908 A provide correct code references.

MOTION: **Senator Davis** moved to print **RS 22144**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

S 1029

Relating to codifier and technical corrections to the Idaho Code to provide for the correction of errors found in names, grammar and punctuation as identified by the Legislative Services staff.

Katherine Gerrity, Legislative Services, explained the current process in making codifier and technical corrections. In the case of codifier corrections, the codifier notifies the editors of the code sections affected and the changes are included in Legislative Services' codifier bill. In terms of technical corrections, those corrections are identified by Legislative Services staff and include changes involving grammar and punctuation. Codifier and technical corrections are often made the next time an affected code section is amended. **Ms. Gerrity** said **S 1029** would address the changes immediately rather than wait for future amendments to the specific sections.

MOTION:

Senator Davis moved to send **S 1029** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

H 55

Relating to the Idaho Telephone Solicitation Act to conform Idaho's statute to regulations governing the National Do-Not-Call Registry, which has been designated as Idaho's list.

Jim Clark, representing Frontier Communications, opened his remarks on **H 55** by reviewing the history of the 2000 do-not-call rule. The law added three exemptions, one of which prohibited telephone companies from calling their customers. He said **H 55** removes the language that disallows this exemption and also adds a consumer protection provision of an "opt-out" clause, which does not now exist in Idaho law.

Senator Werk asked Mr. Clark to explain the current language compared with the new language contained in the amendment. **Mr. Clark** reviewed the explanation contained in the Statement of Purpose and recapped the position that telephone companies are simply asking to be able to contact their customers just as any other commercial service provider can. **Senators Hill** and **Werk** asked for more specific information and a discussion was held on customer protection, charitable and political organizations and the impact of cell phones on the do-not-call rule. **Mr. Clark** said the opt-out clause protects consumers and the amendment makes it a better law.

TESTIMONY:

Mr. Bill Roden, representing Century Link, related the history of the 2000 and 2004 do-not-call legislation and reviewed the specific rules specified on the Federal Trade Commission (FTC) web page (See Attachment I). He explained the rationale for the amendment and said that a company should be allowed to call its own customers to let them know about new products or benefits.

Brett DeLange, Office of the Attorney General, spoke in opposition to **H 55** stating that consumers have the right to privacy and protection from telemarketers and that consumers who go to the trouble of putting their names and numbers on the do-not-call list simply do not want calls. Idaho has over one million names on the no-call list and it was the first in the nation to pass legislation that made the no-call list possible. **H 55** also requires that every business maintain an internal no-call list. That is not effective.

Senator Hill asked why a telecommunications company should be treated any differently than any other company in regard to whether they should be allowed to call customers with which they have a business relationship. **Mr. DeLange** responded that they are the exception; but why should the situation be made worse by allowing communication companies to make those calls.

Senator Lodge stated that she had a cell phone and a land line; would that be considered an established business relationship with that company? **Mr. DeLange** concurred. Under current law, they can't call but this legislation will allow them to do so. **Senator Werk** asked if there was a compelling reason to keep the exemption (communication companies) to the exemption (businesses can call anyone with an established business relationship) to the no-call list. **Mr. DeLange** reiterated his earlier statements that people do not want to be called.

Further discussion was held on the pros and cons of **H 55** including types of companies affected, definition of "established relationships," and exceptions to the rule. **Senator Davis** said he feels there is a need to revise the legislation to find parity but believes there are better parity solutions; **Senator Werk** said he believed it was not good legislation to expose citizens to more solicitation calls.

Senator Lodge disclosed under 39 (h) that she had a family member who is employed by a communications company.

MOTION:

Senator Winder moved to send **H 55** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. **Senator Werk** requested a roll call vote.

The motion carried by a **roll call vote** of 5 to 4 with **Senators Hill, Winder, Lodge, Siddoway** and **Chairman McKenzie** voting **aye**; **Senators Davis, Fulcher, Stennett** and **Werk** voting **nay**.

**PASSED THE
GAVEL:**

Chairman McKenzie passed the gavel to Senator Lodge and thanked her for her assistance.

S 1078

S 1078, relates to the addition of a new section to Chapter 1, Title 33, Idaho Code (§ 33-107D), which prohibits public universities from discriminating against religious student groups.

Chairman McKenzie introduced **S 1078** stating that it is related to religious-based student groups on public university campuses. Discussion on this topic began last May when Representative Crane, Senator Davis and the Chairman attended a religious freedom conference in Washington D.C. put on by the Ethics and Public Policy Center's American Religious Freedom Program. It addressed religious liberty for different faiths and the widespread viewpoints from diverse religions concerned with the need for religious. He said that Idaho and some other states have formed religious liberty caucuses to serve as clearing houses for issues related to religious liberty.

An Idaho caucus was formed by Senators Davis, Tippets, Nuxoll, and Representatives Crane, Batt, and Luker to address religious liberty issues as they might come up. Subsequently, Kim Colby, Legal Counsel for the Christian Legal Society, contacted Chairman McKenzie advising him of an issue at one of Idaho's public universities. It appeared that Boise State University was considering adoption of a policy that would exclude from campus, any religious group that requires its leaders to agree with the group's religious beliefs. The Idaho Caucus, with suggestions from Ms. Colby, drafted the language in **S 1078** that specifically prohibits Idaho public postsecondary educational institutions from discriminating against a religious student group, based on that group's requirement that its leaders adhere to sincerely held religious beliefs or standards of conduct. He said the language is consistent with what other states have already done or are in the process of doing.

Chairman McKenzie said he had asked for and received an opinion letter from the Attorney General's office as to whether or not **S 1078** conflicts with Article I, Section 4 and Article IX, Section 5 of the Idaho Constitution. He summarized the Attorney General's letter which, in essence, said "the legislation, if adopted, does not appear to violate those provisions on its face."

Discussion was held on issues concerning whether the legislation would encourage the formation of terrorist groups and other violent organizations, and questions were asked as to the definition of a group leader's and its members' ideologies.

Senator Hill asked if there would be protections against certain types of inflammatory speech implied or stated elsewhere in statute. **Chairman McKenzie** responded that he couldn't answer as to what campus limits were placed on other forms of free speech. He believes that the bill, as drafted, is consistent with the current student organization's handbooks.

Senator Stennett questioned whether this bill would be more restrictive or will it still be possible to maintain an open door for those who do not necessarily believe in the same ideology as the group. **Chairman McKenzie** answered that it was open to any person who wanted to be a member, belief in the ideology is only required to hold positions of leadership.

Senator Lodge called on individuals who had signed up to testify.

TESTIMONY:

Those testifying in support of **S 1078**:

Bruce Skaug, private citizen

Julie Lynde, Cornerstone Family Council

Kyle Clifton

Kyla Cuvelier

Jared Kopczynski

Nate Jansen

Jesse Barnum, affiliated with Boise State University.

Reasons given for supporting the legislation included: (1) Avoidance of religious discrimination on campuses; (2) Benefits of advancing an open discourse of differences; and, (3) Protection and recognition of religious student groups believed to have faced religious discrimination on Idaho's campuses.

Those testifying in opposition to **S 1078**:

Kent Nelson, general counsel at the University of Idaho

Monica Hopkins, American Civil Liberties Union

Andrew Blake, representing Association of Students of University of Idaho.

Reasons given for opposing the legislation included: (1) The legislation is redundant because the law already prohibits religious discrimination; (2) The legislation would breed discrimination; and, (3) The Boise State University handbook states that personal beliefs may not be promoted.

The merits and shortcomings of the legislation were discussed. **Senator Davis** said this is not a solution in search of a problem but is a solution to a problem, and he reminded the Committee that the Attorney General's opinion letter was affirmative. **Senator Lodge** called for a vote.

MOTION:

Senator Fulcher moved to send **S 1078** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Werk** were recorded as voting **nay**. **Chairman McKenzie** will sponsor the bill on the Senate floor.

**PASSED THE
GAVEL:**

Senator Lodge returned the gavel to Chairman McKenzie.

**S 1108
CONTINUED:**

Chairman McKenzie said the vote on **S 1108** would be postponed until next meeting but due to traveling constraints, the Committee would hear testimony on the bill from two individuals.

TESTIMONY: **LeRoy Smith**, private citizen, testified in opposition to **S 1108**, primarily because of his belief that the legislation would take more rights from Idaho's citizens. He asked that the Committee vote this legislation down.

Mr. Ed Wardwell, private citizen, testified in opposition to **S 1108** stating that restricting the referendum and initiative process is a step backwards.

Chairman McKenzie thanked Mr. Smith and Mr. Wardwell for their testimonies and deferred further action on **S 1108** and, **S 1079** and **RS 22132**, to the next meeting on Wednesday, March 6.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 10:01 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Jeanne' Clayton

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 06, 2013

SUBJECT	DESCRIPTION	PRESENTER
S 1079	Relating to Internet Crimes Against Children to create a unit in the Office of the Attorney General to aid in the investigation and prosecution of offenders. (Carried forward from the March 1 agenda.)	Paul Jagosh, Fraternal Order of the Police.
S 1080	Relating to County Prosecutors to eliminate a conflict of interest that currently exists when they are acting in their official capacity by moving that authority to the Attorney General.	Senator Rice
CONTINUATION OF S 1108	Relating to Initiative and Referendum Elections to address the balance between urban and rural voters in qualifying initiatives or referendums for the ballot.	Russ Hendricks, Idaho Farm Bureau Federation
	The following three RSs are requests to print from the Commerce and Human Resources Committee:	
RS22086	A Concurrent Resolution to reject Docket No. 24-2501-1201, Bureau of Occupational Licenses relating to the Idaho Driving Business Licensure Board.	Senator Patrick
RS22162	Relating to Worker's Compensation to extend a temporary premium tax reduction and certain deduction provisions.	Tom Limbaugh, Industrial Commission
RS22158	A Concurrent Resolution rejecting certain rules of the Bureau of Occupational Licenses relating to the Board of Architectural Examiners.	Senator Patrick
RS22132	A Senate Concurrent Resolution honoring five Idaho servicemen who have given the ultimate sacrifice during the past year.	Senator Davis
	The following RSs are requests to print from the Education Committee:	Senator Goedde
RS22109	Defines Financial Emergency for local school districts.	
RS22129C2	One year / two year contracts.	
RS22130C1	Reducing salaries; contract duration.	
RS22131C1	Majority representation; majority ratification.	
RS22160	Limits litigation impact; preserves due process rights.	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

Twyla Melton

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 06, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.

S 1079 Relating to Internet Crimes Against Children (ICAC) presented by Paul Jagosh, Fraternal Order of Police (FOP).

Mr. Jagosh explained that **S 1079** is the result of three years of work by the FOP because crimes against children are a top priority. The ICAC Task Force has been operating through the Attorney General's (AG) office for the past five years using a \$250,000 grant from the federal government. The intent of **S 1079** is to make the task force an official part of the AG's office and create a bucket should finances be appropriated.

The task force is needed to follow up on the 5,000 leads currently on file for people trading in child pornography. Over 34,000 kids per year are solicited for sex online and 5,000 of these predators have attempted to meet children in person. That number is only from one lead source; it does not include other sources such as social networking and Craig's List advertisements. Studies have shown that 80 percent of the people watching and trading in this type of pornography are also offending kids. One officer, during 24 investigations, rescued 51 children from some form of violent sexual abuse.

Mr. Jagosh gave other statistics and examples of what the task force has encountered in Idaho during the course of its existence. Most victims do not report abuse and that is why the investigations are so important. Not only do the victims endure extreme physical pain, there are emotional ramifications as well.

Currently, the ICAC task force has part-time investigators that equal two to three full-time investigators. One highly trained investigator can pursue 25-30 leads which equates to 100 cases per year out of the 5,000 active leads. The leads are not acquired by investigating personal computers and Google search history, they come from people who are openly trading this information in cyberspace. Any search and seizure is done with a warrant. The predators are aware of the number of arrests and who is getting away with these crimes. They know very little is being done in Idaho and that this state could become a safe haven for these predators.

There is a need for dedicated resources and highly trained investigators to fully investigate these cases. The costs to Idaho is not only in dollars but also in the emotional effects including mental disabilities and school drop outs. The task force needs help in sending a message to these evil doers that violating our children will not be tolerated in Idaho.

Senator Fulcher asked for an explanation of the mechanics of a search, how the searches are conducted and the tools used. **Mr. Jagosh** deferred the question to Detective Tim Brady.

Tim Brady, Detective, Boise Police Department, has been conducting ICAC investigations for about seven years. Each case is different but everything the investigator does requires some legal process. They deal with the large social networks, small companies and large companies such as CenturyLink or Cable One. There always must be probable cause or reasonable suspicion that a crime is occurring. The information that is collected must relate directly to the case. There is no authorization to collect extraneous or bank information.

Senator Werk asked Mr. Jagosh about page 3, section 2 (5); how would the task force operate? **Mr. Jagosh** answered that the funds from the federal government pays the salary for the part-time officers. When an investigator from another agency works for the task force, the salary is reimbursed back to that agency. They still work for their regular agency but when they work for the task force, they become agents through the AG's office. Most investigating is done in cyberspace so most of the work can be done from an office in a central location in the AG's office in Boise. They work with local law enforcement and prosecutors, and eventually will travel to the pertinent area.

Senator Werk asked if the employer would be the AG's office. **Mr. Jagosh** said they would be employees of the agency they work for but would be an ICAC agent. **Senator Werk** inquired about the type of oversight in terms of monitoring activities to ensure that inappropriate investigating tactics would not occur. **Mr. Jagosh** explained that a judge is overseeing the activities and determining what should be included in the search. The leads come from an open and public forum; there is no authorization for personal investigation. **Senator Werk** asked if it is the responsibility of the AG to see that there are no abuses to the authority given this task force. **Mr. Jagosh** deferred to Brian King, AG's office.

Mr. King responded that the AG will have oversight for that unit. Any allegations of abuse will be handled by the AG. The AG's office has experience in these types of investigations. The task force has been in effect and effective within the state for several years, and has identified an area where there are not enough resources to address the issues confronting the state.

Senator Davis is concerned about the accuracy of the fiscal note and referred to Joint Rule 18 which outlines the requirements of fiscal notes. **Senator Davis** then referred to section 3 of the bill and noted that it does not require the expenditure of funds but says that a fund is created in the State Treasurer's Office and the fund has two sources: 1) Funds that are appropriated by the legislature at their discretion and 2) Grants, donations or monies from other sources. Section 3 creates a bucket the legislature may, at some time, choose to fund. The fiscal note says that the bill will cost the state a certain amount. Should the fiscal note be changed to say "in the event the bill passes, the bucket is created, and if this legislature or subsequent legislatures choose to appropriate monies at their discretion, these costs could be part of the hard costs." If the bill passes, it does not require that the legislature fund it if they are without the resources to do so.

Chairman McKenzie explained that after the bill was printed, he, Cathy Holland-Smith, Senator Rice, Senator Winder and Representative Bedke generated a chart to show at what levels the ICAC would be funded, what it would cost and then searched for a funding mechanism outside the general fund. This is a bucket bill in the sense it doesn't appropriate anything but sets up a bucket if a subsequent funding bill is initiated. A correction to the fiscal note will be made to show that a bill must come from the Joint Committee appropriating funds this year and each subsequent year.

Senator Winder noted that this is an important issue and past discussions have always ended with a question about funding without going to the general fund. This is a creative approach since the AG's office receives awards from various sources that can be used for some initial funding this year and then a determination can be made for future funding.

MOTION: With the corrections to the fiscal note that were just stated, **Senator Lodge** moved to send **S 1079** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**. Chairman McKenzie will sponsor **S 1079** on the Senate floor.

Chairman McKenzie welcomed the visiting Government class from Boise High School.

The following three RSs were a unanimous consent request to print from the Senate Commerce and Human Resources Committee:

RS 22086 A Concurrent Resolution to reject Docket No. 24-2501-1201, Bureau of Occupational Licenses relating to the Idaho Driving Business Licensure Board presented by Senator Patrick.

RS 22158 A Concurrent Resolution rejecting certain rules of the Bureau of Occupational Licenses relating to the Board of Architectural Examiners presented by Senator Patrick.

MOTION: **Senator Davis** moved to send **RS 22086** and **RS 22158** to print. The motion was seconded by **Senator Fulcher**. The motion carried by **voice vote**.

RS 22162 Relating to Worker's Compensation to extend a temporary premium tax reduction and certain deduction provisions presented by Tom Limbaugh from the Industrial Commission.

MOTION: **Senator Davis** moved to send **RS 22162** to print. The motion was seconded by **Senator Lodge**. The motion carried by **voice vote**.

S 1080 Relating to County Prosecutors to eliminate a conflict of interest presented by Senator Rice.

Senator Rice explained that this bill addresses a conflict of interest that county prosecutors currently have when prosecuting a county elected official. That prosecutor also investigates allegations of violations of state law by those same elected officials. They can declare a conflict of interest but that doesn't always happen. The bill authorizes that those complaints be sent to the Attorney General's (AG) office where there would be a preliminary investigation to determine a course of action. The AG's office has the ability to correct non-judicial as well as more serious issues.

There is a fiscal impact of \$212,600 for hiring an additional Deputy Attorney General and one investigator.

Senator Werk raised the question of a possible conflict of interest in the AG's office. **Senator Rice** said that there are alternatives in the event of a conflict of interest. If a conflict exists, the case could be sent to a mandatory conflict council selected by the courts at the county level.

Senator Davis asked if the bill required the allegation to be put in writing then submitted to the AG for consideration. How does the AG's office become aware of an allegation? **Senator Rice** answered that it could be a written submission or a phone call, which is the most frequent. When a complaint comes in, proof must be collected to show that there was a violation of state law.

Senator Siddoway was concerned about the cost to the county for outside resources to prosecute when a county prosecutor was able and willing to prosecute the offender. **Senator Rice** stated that prosecuting an official that is a client of the county by a county prosecutor is prohibited under the Bar Ethics Rules; the county would have to send it out. In this bill, if the AG's office has the resources, it will handle the prosecution and will not bill the county. If the AG's office has no resources, it will go to another county for prosecution.

Senator Stennett was concerned about the wording "any allegation" versus "any credible allegation." What is there to ensure that only allegations that have some credence are pursued? **Senator Rice** explained that was addressed when the language "violated state laws" was added. This would make sure the AG would only get those with a conflict of interest.

MOTION:

Senator Winder moved to send **S 1080** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Senator Werk agrees that this is a good idea but is concerned about credible allegations. Also, there is no confidentiality within the language. He will vote no.

Senator Davis agreed with Senator Werk's point about confidentiality.

Chairman McKenzie referred to the investigations that the AG's office does; are those subject to the Freedom of Information Act requests or is there some confidentiality that would attach in the AG's office or in the county prosecutor's office? **Senator Rice** answered that they are confidential. These are mostly citizen complaints so results are made public in advance on something that requires no action to protect reputations.

Senator Davis requested some statutory provision that speaks to the confidentiality issue so it would be available if this motion passes. **Senator Rice** agreed.

The motion carried by **voice vote**. **Senator Rice** will sponsor **S 1080** on the Senate floor.

**CONTINUATION
OF S 1108**

Relating to Initiative and Referendum Elections presented by Russ Hendricks, Idaho Farm Bureau Federation.

Chairman McKenzie said that this is a continuance of **S 1108** to allow further testimony and a closing from the sponsor before addressing the bill.

TESTIMONY:

Tyler Malard, Government Affairs Liaison for Risch Pisca PLLC representing the Idaho Beer and Wine Distributors Association, testified in support of **S 1108**. The ballot initiative process should involve as many voters across the state of Idaho as possible. **S 1108** does not preclude the ability to do a ballot initiative, it ensures that all the signatures are not collected in Ada and Canyon counties. Initiatives are becoming more common and more expensive across the nation. Washington spent in excess of \$22.7 million on the passage of Initiative 1183 which was a 60 page, complex alcohol law written by big box retailers for big box retailers. Costco spent \$20.8 million to get that initiative passed. This law put liquor in big box retail stores, it deregulated the three tier system as it pertained to wine, it increased prices and it created more access to liquor for youth. Fortunately, Idaho's constitution requires that alcohol policy be decided by legislators. **S 1108** does not prevent ballot initiatives but makes them more representative of the state.

Senator Werk asked if Washington state has the ability to alter, repeal or change statute that is created through the initiative process. **Mr. Malard** did not know.

Bert Marley, Idaho Education Association (IEA), spoke in opposition to **S 1108**. Speaking as a former member of this body, he said that no one wants to routinely make public policy through the initiative process. However, it does have a valuable place in the republican form of government as is a reasonable safety valve for the populace to respond if provoked. The process has not been abused; this bill is the result of speculation.

Mr. Marley proceeded to give examples and statistics of various initiatives that have succeeded and those that have failed. Members of the IEA have a high level of frustration over this bill as it appears that it is a direct effort to make it easier to suppress the will of the people. Many feel it is a direct attack because of the success in rejecting the Students Come First laws. **Mr. Marley** shared some observations gained from his experience with the initiative process. He went on to compare Idaho's requirements versus those of other states that indicate the bar is much higher in this state. There is also a handicap concerning the time restraints to gather and register the signatures.

Senator Davis asked for specifics on the 2012 ballot initiatives. **Mr. Marley** responded that six counties were under six percent and two of those had adjusted numbers that showed they were over the six percent. The Secretary of State compiled a chart using the proposed changes from **S 1108** and applied them to Proposition I, II, and III. Under that scenario, three districts would not have reached the six percent level.

Senator Winder and **Senator Werk** both pursued questions about the confusion people had about their address and how it related to their legislative district and would the results for the last initiatives have been the same. **Mr. Marley** believed the results would not have been the same.

- Shuffling petitions between gatherers and county officials and others eliminates about one-third of the names for various reasons which happens in either case.
- This change puts urban voters at a disadvantage from rural voters.
- The number would be very different using legislative districts.

Senator Werk asked if a large, well-funded group would be more successful than a smaller, citizens group because they could overcome most obstacles. **Mr. Marley** answered that was a concern at any time.

Mr. Hurst, at the request of Senator Winder, referred to page 3, lines 13-14 and line 28, to clarify that each petition form will have a legislative district number on it and the person signing must be in that district as determined by their address.

Senator Werk questioned Mr. Hurst on the accuracy of the fiscal note considering the amount of work that will be added at the county level. **Mr. Hurst** replied that it will not be much of an increase because everything is automated.

Mr. Hendricks concluded his remarks by addressing a couple of issues. Adjustments should be made now before there are some abuses. Regarding voters signing the correct petition, maps are available but also, the Secretary of State's office has a website called idahovotes.gov that allows any voter across the state to find out which district they reside in and is available on a variety of electronic devices (it takes about 15 seconds).

Mr. Hendricks drew attention to a handout, Attachment A, that shows the results of four Ninth Circuit Court cases on geographic requirements based on legislative districts and that they all found it did not violate existing equal protection clauses. **S 1108** is a practical way to address the issue before the Committee in a manner that is fair and reasonable and asks for support to send to the floor with a do pass.

Senator Werk contended that the fiscal note is inadequate due to anticipated litigation costs. **Mr. Hendricks** responded that any law could be litigated but with these rulings, that probably won't happen.

MOTION:

Senator Siddoway moved to send **S 1108** to the Senate floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion.

Senator Siddoway stated that this has nothing to do with past issues, it has to do with the issues we are threatened with in the future like cannabis, animal rights and animal cruelty. It has to do with treating all people across the state equally; the concerns of rural Idaho has to be addressed as much as urban Idaho. He will be supporting the bill.

Senator Stennett agrees it is a question of fairness and that the one person, one vote will be recognized. The effort to give rural areas more advantage further restricts the process. Those signatures above the six percent do not qualify so it is unfair. She won't support this bill.

Senator Hill explained that the numbers over six percent do count because if you only had six percent of the 18 legislative districts, there would not be six percent of the total population which is also a requirement.

Senator Fulcher intends to support the motion. However, he understands the counterpoint view but his rationale is that this is a point of inclusion, not exclusion. The demographics of the state are such that to include the voices of the broad cross-section of this state, it is appropriate to take this step.

Senator Lodge agrees with Senators Fulcher and Siddoway. Even though she comes from a populous county, the area she represents is more rural. This is a way to get more people across the state involved in the voting process so she will be supporting this bill.

Senator Davis stated his concern with the original RS and requiring 22 legislative districts and he felt a simple majority was more than adequate. **Senator Davis** pointed out the following issues:

- The current process may crush public involvement statewide.
- This bill encourages public involvement statewide.
- Constituents outside the Mountain Home to Payette area (where 50 percent of Idaho's population resides.) should have been included.
- If this bill would have been in effect in 2012, participation would have been greater than the actual numbers showed.
- Fears California governance model; Idaho's model is better and this legislation protects that model.

Senator Werk stated his concerns:

- A higher bar makes it less likely people within Idaho will participate directly in the initiative process.
- Funded professional gatherers would be the only way to get the signatures needed to get an initiative on the ballot.
- There is confusion about which legislative district the signer belongs in even with technology available to help the gatherers.
- Judicial rulings can make this change constitutional, but it is not necessarily good policy.
- The fiscal note is inadequate since this law certainly will be challenged in court.

- The 60 day deadline is a problem.
- The initiative process is a stopgap, in the absence of legislative action, to allow the people to act in their own best interest.

Senator Werk stated that eroding the people's ability to affect law in the state is the wrong way to move and for that reason he will be not supporting the motion.

Senator Davis agreed with Senator Werk that there should be more public participation and that is what the sponsors of **S 1108** are trying to do. He also tested the website to see how hard it was to access and the time it took to look up his legislative district since he had not done that before; it took 19 seconds. It was not onerous at all.

Senator Winder said that we can learn from Oregon and Washington where the Cascade range is not only a physical and geological barrier, it is an ideological and political barrier and those that live east of the Cascades are disenfranchised since they have no say in the initiative process. This is not retribution and it will stand the test of any kind of litigation.

**ROLL CALL
VOTE:**

At the request of **Senator Werk**, **Chairman McKenzie** called for a **roll call vote** on the motion to send **S 1108** to the floor with a **do pass** recommendation. The motion carried with seven ayes and two nays. **Chairman McKenzie** and **Senators Davis, Fulcher, Hill, Winder, Lodge** and **Siddoway** voted **aye**. **Senators Stennett** and **Werk** voted **nay**.

The following RSs were requests to print from the Chairman of the Education Committee and the President Pro Tempore:

RS 22109

Defines Financial Emergency for local school districts.

RS 22129C2

One year and two year contracts.

RS 22130C1

Reducing salaries; contract duration.

RS 22131C1

Majority representation; majority ratification.

RS 22160

Limits litigation impact; preserves due process rights.

MOTION:

Senator Hill moved to send **RS 22109, RS 22129C2, RS 22130C1, RS 22131C1** and **RS 22160** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie deferred **RS 22132** to the next meeting on Friday, March 8.

ADJOURNED:

Chairman McKenzie thanked the Committee and adjourned the meeting at 10:06 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 08, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes of February 8, 2013	Senators Winder and Siddoway
	Minutes of February 13, 2013	Senators Lodge and Werk
	The following three RSs are unanimous consent requests to print received from the Resources and Environment Committee:	Norm Semanko, Exec. Dir., Idaho Water Users Assoc.
RS22152	Authorizes water districts to utilize available water district funds to increase salaries of water district employees.	
RS22154	Creates a process and procedures to allow limited types of irrigation districts to be partitioned into more than one district.	
RS22156	Provides clarification regarding persons and business entities who are allowed to vote in irrigation district elections.	
GUBERNATORIAL APPOINTMENT:	The reappointment of Sheila Olsen to the Idaho Commission on Human Rights.	
H 0107	Relating to Absentee Voting to provide alternative procedures for absentee and early voting.	Tim Hurst, Secretary of State
H 0161	Relating to Election Consolidation to revise, amend, clarify and make technical corrections.	Tim Hurst
S 1105	Relating to the Legislative Department to allow the Legislative Council to engage the services of a certified public accountant to conduct audits.	Jeff Youtz, Director, Legislative Services Office
H 0181	Relating to the Capitol Building and Grounds to create a dedicated fund from existing Capitol Commission endowment funds for major repairs and maintenance.	Jeff Youtz
RS22132	A Senate Concurrent Resolution honoring five Idaho servicemen who have given the ultimate sacrifice during the past year.	Senator Davis
S 1112	Relating to the Public Utilities Commission to clarify and combine Idaho Code §§ 61-622 and 623 related to rate cases.	Chairman McKenzie and Rep. Eskridge

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 08, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present.

MOTION: **Senator Winder** moved to approve the minutes of February 8, 2013. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Lodge** moved to approve the minutes of February 3, 2013. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie welcomed Norm Semanko, Executive Director, Idaho Water Users Association, to present three RSs from the Resources and Environment Committee.

RS 22152 Authorizes water districts to utilize available water district funds to increase salaries of water district employees.

RS 22154 Creates a process and procedures to allow limited types of irrigation districts to be partitioned into more than one district.

RS 22156 Provides clarification regarding persons and business entities who are allowed to vote in irrigation district elections.

Mr. Semanko referred the Committee to a letter of request from Senator Monte Pearce, Chairman of the Senate Resources and Environment Committee, to send the three RSs to print.

MOTION: **Senator Hill** moved to send **RS 22152**, **RS 22154** and **RS 22156** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The reappointment of Sheila Olsen to the Idaho Commission of Human Rights (Commission).
At the request of Chairman McKenzie, **Ms. Olsen** reviewed her role with the Commission and the overall manner in which cases are processed. She said the Commission works closely with the Attorney General's office and that office makes the decision as to which cases go forward in a nonpartisan way. **Ms. Olsen** said her association with the Commission has been a wonderful and satisfying experience.

Senator Lodge commended Ms. Olsen for her caring and understanding approach. **Senator Hill** said he will support Ms. Olsen's reappointment when her reappointment comes before the Committee for a vote and asked her to share her thoughts on what she feels the Commission has achieved thus far. **Ms. Olsen** said the Commission performs an essential function by working with the Attorney General's office to neutralize difficult situations in a fair and sensitive manner. **Senator Davis** commended Ms. Olsen as an exemplary and prominent public servant of Idaho.

Chairman McKenzie thanked Ms. Olsen for appearing before the Committee and sharing her thoughts.

H 107

Relating to absentee voting to provide alternative procedures for absentee and early voting.

Tim Hurst from the Idaho Secretary of State's office, explained that **H 107** amends chapter 10, title 34, Idaho Code by adding Idaho Code §§ 34-1012 and 34-1013. He said the legislation essentially provides another way of voting in person at the elections office prior to election day. The law currently requires each county to have at least one site for in-person absentee voting. Although 75 percent of Idaho voters go to the polls on election day to vote, over 80,000 voted early last year at the courthouse or elections office. This legislation would allow early voting sites to follow the same procedures that polling places use on election day. He said the ballots will be kept in locked and sealed ballot boxes which will not be opened until election day when the ballots are counted. No results will be released until all of the polls are closed throughout the state.

Mr. Hurst said the legislation makes these early voting procedures optional but not mandatory. The county clerk can still continue to use the absentee ballot envelopes and many smaller counties would probably continue to use the envelopes. Basically, he said the legislation will make it easier for the voters, will speed up the process of voting at the early voting site, and counting ballots will be faster and will not compromise security.

TESTIMONY:

Phil McGrane, Chief Deputy, Ada County Clerk's Office, testified in support of **H 107**, citing long lines at early voting places, easier tabulation with flat ballots, cost savings and greater security. He said from the administrative side, the difference is enormous; the County Clerk's Office has hired as many as 90 extra people working eight hours just to open the envelopes.

MOTION:

Senator Lodge moved to send **H 107** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**. **Senator Winder** will carry **H 107** on the Senate floor.

H 161

Relating to election consolidation to revise, amend, clarify and make technical corrections.

Mr. Hurst reviewed **H 161** in detail, stating that the legislation addresses issues that came up during the past year as counties conducted elections for the various taxing districts. He said the legislation: (1) Brings tax supported city library districts into line with other library districts; (2) Sets a deadline by which taxing districts must submit language for a ballot question to the county clerk so ballots can be printed in a timely fashion; (3) Clarifies some of the requirements and procedures in recall elections; and, (4) Changes the waiting period for a failed local option tax election conducted for a resort city from one year to 11 months. He said the legislation also conforms the time frame for requesting and issuing an absentee ballot in an emergency situation which renders the voter unable to go to the polls to vote and makes other clarifying changes.

MOTION: **Senator Siddoway** moved to send **H 161** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senator Winder** will carry **H 161** on the Senate floor.

S 1105 Relating to the Legislative Department to allow the Legislative Council to engage the services of a certified public accountant to conduct audits.

Mr. Jeff Youtz, Director, Legislative Services Office, presented **S 1105** on behalf of the Legislative Council. He said the legislation basically changes the audit cycle of the legislative branch from an annual audit to a two-year audit. It also puts the oversight of the audit with the Legislative Council rather than the Board of Examiners, an executive branch institution. **Mr. Youtz** explained that moving the audit to a biennial budget would save time and money and reduce overall costs by about one-third. He said it would also address the separation of powers issue.

Senator Hill declared a conflict of interest under Rule 39 (h), stating that many of these audit transactions are initiated for or approved by him.

MOTION: **Senator Werk** moved to send **S 1105** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Senator Lodge** will carry **S 1105** on the Senate floor.

H 181 Relating to the Capitol building and grounds to create a dedicated fund from existing Capitol Commission endowment funds for major repairs and maintenance.

Mr. Youtz explained the rationale for **H 181**. He said the Capitol Commission currently has two funds; a permanent endowment fund and a small income fund. But, a special savings fund is needed by which money can be used for the repair and upkeep of the Capitol building and grounds. He said this legislation creates a savings account for this purpose. There would be no impact to the General Fund.

Senator Winder asked the record to show he is a co-chair of the Capitol Services Commission and makes decisions and recommendations; he is also a member of the Endowment Fund Investment Board.

MOTION: **Senator Siddoway** made a motion to send **H 181** to the floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**. **Senator Winder** will sponsor **H 181** on the Senate floor.

RS 22132 A Senate Concurrent Resolution honoring five Idaho servicemen who have given the ultimate sacrifice during the past year.

Senator Davis explained that five servicemen will be recognized on the floor of the Senate on Friday, March 15, 2013 for sacrificing their lives at the wars in Iraq and Afghanistan this past year. These servicemen are: U. S. Army Staff Sergeant Daniel J. Brown; U. S. Army Private First-Class Cody O. Moosman; U. S. Army Private First Class Chris J. Workman; U. S. Army Specialist Ethan J. Martin; and U. S. Army Private First Class Shane G. Wilson. This Senate Concurrent Resolution honors those servicemen and their families. **Senator Davis** asked if the Committee would be comfortable removing the word "Iraq" in the Statement of Purpose because these servicemen were all killed in service in Afghanistan.

Senator Hill noted the resolution itself also refers to Iraq. **Senator Davis** said he would be comfortable removing "Iraq" just from the Statement of Purpose.

MOTION: **Senator Hill** moved to send **RS 22132** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman McKenzie** passed the gavel to the unofficial Vice Chairman, Senator Lodge, so he could present the next item of business.

S 1112

Relating to the Public Utilities Commission to clarify and combine Idaho Code §§ 61-622 and 61-613 related to rate cases.

Chairman McKenzie explained that the two Code sections are 100 years old and the first sentence in § 61-623 is 228 words long. More important, the language in the two sections is contradictory. He quoted the findings of the Idaho Supreme Court which noted the two sections are "inconsistent and contradictory." He explained how the new language was developed by the co-chairmen of the Interim Energy Committee, and the process by which the amended language was reviewed and approved by the Public Utilities Commission, investor utilities and rate payers organizations.

TESTIMONY:

The Committee heard testimony from: **Elizabeth Criner** and **Benjamin Kelly**, Northwest Food Processors Association; **Robert Geddes**, Energy Manager, Monsanto Company; **Don Howell**, Director, Legal Division of the Public Utilities Commission, and **Paul Kjellander**, Public Utilities Commission, all testifying in support of **S 1112**. The rationale for supporting this legislation included the benefits that would be derived by removing contradictory language and providing a means by which the law can be logically interpreted. **Mr. Geddes**, speaking on behalf of Monsanto, commended the authors of the legislation for producing a single code section that clearly and accurately describes the timing and procedure for the utility rate process. **Senator Werk** asked Mr. Kjellander if the legislation would change how different classes of ratepayers are treated at the commission. **Mr. Kjellander** replied that it would not.

MOTION:

Senator Hill moved to send **S 1112** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Senator Lodge returned the gavel to Chairman McKenzie

ADJOURNED:

Chairman McKenzie expressed his appreciation for the Committee's hard work in getting through some of the long agendas that had come before them this year. There being no further business to come before the Committee, the meeting was adjourned at 8:55 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Jeanne' Clayton

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 11, 2013

SUBJECT	DESCRIPTION	PRESENTER
MINUTES:	Minutes for February 15, 2013	Senators Hill and Stennett
	Minutes for February 18, 2013	Senators Fulcher and Davis
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the reappointment of Sheila A. Olsen to the Commission on Human Rights.	
RS22231	Relating to Social Security Benefits for policemen and firefighters	Senator Winder
H 0053	Relating to the Bond Bank Authority to clarify salaries for certain members of the Authority.	Ron Crane, Treasurer's Office
H 0073	Relating to Information Technology and Telecommunications to create the Idaho Technology Authority by modifying the purpose, composition and responsibilities of the Information Technology Resource Management Council.	Rep. Tom Loertscher
H 159	Relating to the Retail Sale of Liquor by the Drink to authorize the issuance of a state retail liquor license to a federally recognized Indian tribe with certain restrictions.	Rep. Marc Gibbs
RS22207	A Unanimous Consent Request to Print from the Local Government and Taxation Committee relating to solid waste disposal.	Senator Werk
S 1134	Relating to Aeronautics to establish provisions relating to restrictions on the use of unmanned aircraft systems.	Senator Winder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 11, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the meeting to order at 8:09 a.m. with a quorum present.

MOTION: **Senator Hill** moved to approved the minutes of February 15, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

The February 18 minutes will be deferred until the next meeting.

MOTION: **Senator Davis** moved to send the gubernatorial reappointment of Sheila Olsen to the Commission on Human Rights to the floor with the recommendation that she be confirmed by the Senate. **Senator Hill** seconded the motion. The motion carried by **voice vote**. **Senator Tippetts** will be the floor sponsor.

RS 22231 Relating to Social Security Benefits for policemen and firefighters. **Senator Winder** introduced **Dan Goicoechea**, Chief Deputy, State Controller's Office. **Mr. Goicoechea** stated that their office is attempting to fix a forty year old problem with **RS 22231**. Section 218 of the Social Security Act stipulates that the state administrator for Idaho is the state controller. The Controller's office has come before State Affairs in the past regarding retirement coverage for police officers and firefighters. The Federal Social Security Administration informed them that the enabling legislation is inadequate resulting in this legislation.

Senator Hill moved to print **RS 22231**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

H 53 Relating to the Bond Bank Authority to clarify salaries. **Laura Steffler**, Chief Deputy, Treasurer's Office, said this bill addresses a conflict between Idaho Code § 59-501 that sets elected officials salaries and Idaho Code §§67-8703 that sets the compensation for Idaho Bond Bank Board Members. The bill clarifies that elected officials whose salaries are set in Idaho Code § 59-501 shall not be compensated for Idaho Bond Bank Authority Board meetings. **Senator Davis** asked why they are not proposing language that also excludes salaries of legislators that are appointed to the Bond Bank Authority. **Ms. Steffler** explained that it is acceptable for the legislators to receive compensation for their service on boards. In section 67-8703, elected officials whose salaries are set in code cannot earn additional compensation from the state.

Senator Hill moved to send **H 53** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **H 53** on the Senate floor.

H 73 Relating to information technology and telecommunications. **Representative Loertscher** stated that the Idaho Technology Resource Management Council was established in order to effectively manage the state information technology (IT). They have consolidated IT efforts for efficiency and

reduced the number of e-mail servers the state uses. **H 73** renames the council to Idaho Technology Authority, reduces the number of required meetings from four to two per year and changes the makeup of the group. **Representative Loertscher** recommended the inclusion of a proposed amendment to **H 73** that would change the legislative representation to one member of each of the two largest parties from each body of the legislature as members of the council

MOTION: **Senator Siddoway** moved to send **H 73** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Hill stated that in the amendment the legislature would appoint one legislator from each of the two parties. Where is the change that the legislature is appointing two people. **Mr. Loertscher** answered that it is not that clear in the legislation. **Chairman McKenzie** asked **Mr. Loertscher** if it was his desire for the Committee to send this bill to the amending order for corrected language? **Mr. Loertscher** responded that would be correct.

Senator Siddoway modified the motion to, instead, send **H 73** to the 14th Order for possible amendment. **Senator Stennett** seconded the motion to send **H 73** to the 14th Order.

The motion carried by **voice vote**. **Senator Siddoway** will carry **H 73** on the Senate floor.

H 159 Relating to the retail sale of liquor by the drink.

Representative Gibbs stated that **H 159** amends section 23-903, Idaho Code, authorizing the issuance of a state retail liquor license for the sale of liquor-by-the-drink to be issued to a federally recognized Indian Tribe on tribal land under specific conditions; the license is nontransferable. If this bill passes, it would stimulate economic activity; would be an economic driver for the Lewiston-Clarkston Valley and the region; and fills the need for a liquor license for an existing facility that is in the process of adding a convention center with 35,000 square feet and 50 rooms.

TESTIMONY: The following people spoke in support of **H 159**.

Chairman Silas Whitman advised that the Nez Perce Tribe (Tribe) has embarked in a stronger direction by expanding their infrastructure and community development; developing natural and human resources; and, assisting federal and state governments with facilities and comanagement. This bill provides a level playing field with the other businesses in the surrounding area. Expanding services for scheduled events, conventions and conferences could generate as much as \$10 million in active tax dollars for the area.

Kristen Kemak, President and CEO of Lewis-Clark Valley Chamber of Commerce (Chamber). **Ms. Kemak** represents 14,798 jobs of which ten percent belong to the Tribe. They support **H 159** which would allow the Tribe to obtain their alcohol license. It is the vision of the Chamber to create a united community, vibrant business environment and quality way of life. They believe the Tribe's efforts will enhance their vision.

Doug Mattoon, Executive Director, Valley Vision, a nonprofit economic development company formed in the valley by the business community to support business efforts to increase the economy in the Lewiston-Clarkston region by helping businesses create additional jobs. They support the Tribe's request for legislation that would grant them a liquor license for their new tribal conference center located outside the city limits which eliminates the option of using an existing license. The Tribe is the third largest employer with 1,380 direct jobs. The Nez Perce Tribal Enterprises operates the hotel and conference center that has a direct employment of 341. Lewiston does not currently have any adequate facilities for larger conferences or concert types of events. Valley Vision did a study as part of a Tourism Strategic Plan

for the valley. The occupancy rate was at 58 percent. If that can be increased by five percent, there would be a direct room revenue of just over \$3 million and an indirect impact of \$28 million.

Jamie Olson, Executive Officer, Nez Perce Tribal Enterprises explained that Tribal Enterprises has grown exponentially over the last three years and we want to see this continue. With the expansion, new jobs will be created that will provide opportunities for people to have a sense of purpose, responsibility, training and career advancement. Thirty-six positions will be added for the gaming enterprise in addition to 137 constructions jobs.

Pam Eaton representing the Idaho Lodging and Restaurant Association, spoke in support of **H 159**. They protect the value of current liquor licenses and they are always cautious of something that might devalue them. They believe this addition will bring in extra business to the hotels and restaurants in the area. This is a specialty license since there is no other option to obtain a liquor license, We ask for the Committee's support of this legislation.

Senator Winder disclosed that, under Senate 39 (h), he could have a potential future conflict but intends to vote on **H 159**. He has received no compensation nor does he have a current contract, but there have been discussions over the last one and one-half years for a consulting opportunity.

MOTION: **Senator Siddoway** moved to send **H 159** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Senator Keough** will carry **H 159** on the Senate floor.

RS 22207 A unanimous consent request to print from the Local Government and Taxation Committee relating to solid waste disposal.
Senator Werk explained that this legislation is a rewrite based on input from various stakeholders to improve some actions of the municipal landfills.

MOTION: **Senator Winder** moved to send **RS 22207** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

S 1134 Relating to aeronautics of unmanned aircraft systems.
Senator Winder stated that this effort has been in progress since the beginning of the session working with various stakeholders including the American Civil Liberties Union (ACLU) and the Sheriff's Association and others. **S 1134** is a follow-up to an earlier resolution that this Committee passed and is intended to provide the constitutional privacy protections that go along with the potential for unreasonable search and seizure with the use of unmanned aircraft.

There are concerns that the Environmental Protection Agency and Department of Environmental Quality will use these aircraft to fly over agricultural land and dairies without permission to gather information without their knowledge or consent. The legislation does not restrict the use of unmanned aircraft systems by state and local law enforcement agencies engaged in marijuana eradication efforts on any property.

Monica Hopkins, Executive Director, ACLU, spoke in support of **S 1134**. This is a strong step forward in protecting individual privacy rights. **Ms. Hopkins** suggested making the bill stronger by adding language that would document those circumstances in which law enforcement could use unmanned aircraft, some data collection language on how long that data could be kept and language that indicates when unmanned aircraft are used, subject to consent for non-law enforcement purposes, and that the information cannot be used in court.

Senator Davis suggested that if unintended data is collected through the use of an unmanned aircraft that may capture information that a crime has been committed, that information should be made available in a civil or criminal proceeding. Are we

statutorily creating legislative consent that an unmanned aircraft system, if there is reasonable suspicion of criminal action, can now be used by law enforcement both in the investigation and the prosecution of a crime? Does this bill create that inference?

Senator Winder replied that this situation occurs with helicopters and fixed winged aircraft. There is no existing format for this type of bill. There is only conjecture about how those types of situations would be handled. **Senator Stennett** asked what other states have passed similar types of legislation; was some of that language considered? **Senator Winder** answered that other states are contemplating a variety of drafts. The state of Texas is contemplating highly restrictive language for the use of unmanned aircraft systems.

MOTION:

Senator Werk moved to send **S 1134** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Davis said he was not prepared to vote in favor of this bill as it is written. There are problems in the following sections.

Section 21-213 (2) (a) (i) (ii) beginning at line 26 and (b) beginning at line 38, page 1:

- Language interpretation suggests that the unmanned aircraft can be used for unwarranted surveillance or observation if there is a reasonable suspicion of a crime; 1) the person being observed consents or 2) they don't have to give consent for all in (a) (i) and (ii) which includes marijuana eradication efforts. Why is it limited to marijuana when there may be other criminal conduct of equal or greater importance. In that case, this could be a barrier.
- Why would criminal conduct be relevant to the publishing or public dissemination of a photograph? It should say that an unmanned aircraft can never be used for that purpose.
- Normally, under Idaho law, there is provision to protect a state employee or an employee of a political subdivision. This legislation creates an individual liability against the person, not just the entity of state agency.

Senator Winder addressed Senator Davis' concerns. 1) The language on page 2 dealing with the law enforcement agency in marijuana eradication efforts responds to a principle called "open field," meaning that any aircraft flying over open, private or public properties has the right to observe certain unrelated subject matter. This legislation allows that same principle to be applied to unmanned aircraft. 2) Publishing of a photograph was an effort to deal with paparazzi and protect individual rights. 3) Transferring liability from an employee to an agency was not contemplated in drafting the legislation.

Chairman McKenzie noted that there is a motion pending. If this is something that should be addressed, **S 1134** could be brought back by unanimous consent. He is concerned about the standard for searches. "Reasonable, articulable, suspicion" usually relates to a search of suspicious activity for weapons.

Senator Winder explained that the language came out of the negotiation process with law enforcement to deal with issues when they may be in pursuit and may have reasonable cause to use an observation technique in the immediacy of an issue.

Senator Werk stated that if the Committee wanted to delay action, he would recall his motion. **Senator Davis** responded that he could vote but restated his concerns with the language. **Senator Winder** answered that he would prefer to address this in Committee rather than on the floor.

Chairman McKenzie announced that, by unanimous consent, **S 1134** would be held in Committee for further review.

ADJOURNED: There being no further business, the meeting adjourned at 9:10 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Carol Deis

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 13, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Minutes of February 18, 2013	Senators Fulcher and Davis
	Minutes of February 25, 2013	Senators Winder and Siddoway
<u>RS22268</u>	A Concurrent Resolution to honor Five Idaho Servicemen	Senator Davis
<u>RS22264</u>	A Unanimous Consent Request from the Senate Agricultural Affairs Committee relating to the domestic cervidae program.	Stan Boyd, Idaho Elk Breeders Association
<u>RS22203</u>	A Senate Concurrent Resolution to approve rules that impose a fee or charge except for those rules that were rejected.	Dennis Stevenson, Administrative Rules Coordinator
<u>RS22204</u>	A Senate Concurrent Resolution to approve and extend temporary rules that were reviewed by the legislature.	Dennis Stevenson
<u>HCR 012</u>	A Concurrent Resolution to commemorate the City of Boise's Sesquicentennial Anniversary.	Rep. Holli Woodings
<u>H 220</u>	Relating to Horse Racing to provide for historical horse racing in certain environments and for the distribution of funds.	Rep. Christy Perry

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 13, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:01 a.m. with a quorum present.

RS 22268C1 A Concurrent Resolution to honor five Idaho servicemen who lost their lives serving in the Afghanistan war over the past year. **Senator Davis** explained that an error in rank designation for one serviceman had been found in the RS, and another error had also been discovered. He said while the discrepancies are minor, the servicemen and their families should be honored with a document that is precise. He said the legislation is being amended and should be ready for the Committee before adjournment. **Chairman McKenzie** approved the delay and addressed the next order of business, which was approval of minutes.

MOTION: **Senator Fulcher** moved to approve the minutes of February 18, 2013. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to approve the minutes of February 25, 2013. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 22264 A unanimous consent request from the Senate Agricultural Affairs Committee relating to the domestic cervidae program. Mr. Stan Boyd, Idaho Elk Breeders Association, was available to answer questions, should there be any.

MOTION: **Senator Davis** moved to print **RS 22264**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 22203 A Senate Concurrent Resolution to approve rules that impose a fee or charge except for those rules that were rejected. **Dennis Stevenson**, Administrative Rules Coordinator, explained that state agency administrative rules adopted pursuant to the Administrative Procedure Act that impose or change a fee or charge must be affirmatively approved by a concurrent resolution of the legislature in order to become final and effective. **RS 22203** is the Senate Concurrent Resolution that approves the pending fees rules submitted to the germane committees for review during this legislative session. Rather than approve each pending fee rule individually, this is an omnibus concurrent resolution that approves the pending fee rules in a single concurrent resolution and rejects those fee rules that are not approved. He said all pending fees rules submitted for final approval were approved by both houses of the legislature with the exception of three that have been excepted out of the current resolution. The rejected fee rules were: rule making for the Lottery Commission and the Athletic Commission in whole, and part of the organic food rule within the Department of Agriculture.

MOTION: **Senator Davis** moved to print **RS 22203**. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

RS 22204 **Mr. Stevenson** explained that statutorily all temporary rules adopted by state agencies in accordance with the Administrative Procedure Act prior to the beginning of this legislative session will expire at the conclusion of the legislative session unless approved by a concurrent resolution of the legislature. He said **RS 22204** is the concurrent resolution approving all the temporary rules that have been adopted pursuant to the Administrative Procedure Act and properly submitted to the germane committees of the legislature by the Administrative Rules Coordinator for review and allows them to remain in full force and effect until the end of the next succeeding legislative session. He said there were only two temporary rules submitted for approval, and both were approved.

MOTION: **Senator Werk** moved to print **RS 22204**. **Senator Lodge** seconded the motion. **Senator Davis** noted a difference in this concurrent resolution from those he had seen previously on the same subject. **Mr. Stevenson** explained the minor change. **Chairman McKenzie** called for a vote and the motion carried by **voice vote**.

HCR 12 A Concurrent Resolution to commemorate the City of Boise's Sesquicentennial Anniversary. **Senator Winder**, co-sponsor of **HCR 12**, presented the legislation, which commemorates Boise's Sesquicentennial (150-year) Anniversary. He said this commemoration would encompass a year long celebration, known officially as Boise 150, and would be centered on the themes of environment, enterprise and community.

MOTION: **Senator Werk** moved to send **HCR 12** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Winder** will carry **HCR 12** on the Senate floor.

H 220 Relating to horse racing to provide for historical horse racing in certain environments and for the distribution of funds.

Chairman McKenzie welcomed Representative Christy Perry for introduction of **H 220**. **Representative Perry** reviewed the legislation, which clarifies in Idaho Code that "Historical Horse Racing," a form of pari-mutuel wagering, is lawful and within the scope of a license that authorizes a live meet licensee to conduct and supervise the use of the pari-mutuel wagering on simulcast and/or televised races. The legislation also sets forth distribution and payment of all sums deposited in any historical horse race pool.

Representative Perry recognized the following individuals in attendance who will share their expertise relative to Historical Racing in particular and the racing industry in general: Frank Lamb, Idaho Racing Commission; Mark Buckley, Idaho Horsemen's Benevolent and Protective Association; Ed McNelis, Idaho Horse Council and Equine Industry and 4-H Program; Rick Yzaguirre, Ada County Commissioner; and Jim Grigsby, Treasure Valley Racing.

Representative Perry presented a film on horse racing, which illuminated the equine industry in Idaho, especially as it relates to historical racing and the potential for generating significant revenue and jobs.

CONTINUATION OF RS 22268C1 **Chairman McKenzie** asked that the presentation of **H 220** be briefly interrupted to address **RS 22268C1**, which was now before the Committee.

MOTION: **Senator Hill** moved to send **RS 22278C1** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

CONTINUATION OF H 220 **Representative Perry** asked that the Committee hear testimony from those who had signed up to testify in support of **H 220**; **Chairman McKenzie** recognized Frank Lamb, Idaho Racing Commission.

TESTIMONY: **Mr. Lamb**, testifying in support of **H 220**, reviewed the historical racing and wagering technology via a database of more than 200,000 actual horse races. He also discussed the auditing system and referred to the state of Wyoming where similar legislation was signed into law recently. He said Wyoming's Racing Commission would share information and work with Idaho's counterpart to ensure a strong regulatory presence.

Senator Lodge asked for the definition of racing steward. **Mr. Lamb** explained that a steward monitors licensees to assure rules are not violated. **Senators Siddoway** and **Fulcher** requested and received details about regulatory procedures and the technical aspects of placing bets.

Rick Yzaquirre, Ada County Commissioner, testified in support of **H 220**, expressing optimism that this new aspect of Idaho's struggling racing industry would provide an opportunity to make it successful.

Jim Grigsby, Idaho/Washington Division President of U. S. Bank, testified in support of **H 220**. **Mr. Grigsby** said he represents the ownership group of Treasure Valley Racing LLC, which owns and operates Les Bois Park. He reviewed the history of live horse racing in Boise and the obstacles encountered over the past few years, citing competition from other entertainment sectors. He said the current operating model today cannot be sustained long term without legislative relief; that Idaho owes its communities, horsemen, families and businesses the opportunity to save live horse racing; and that this legislation would offer a means of doing that.

Ed McNelis, representing the Idaho Horse Council and the \$1.2 billion equine industry, spoke in support of **H 220**. He said the legislation includes a provision that would benefit 4-H and youth programs that will reach across Idaho, providing needed support and assistance to the state's youth. He said Idaho has the highest per capita horse population relative to people of anywhere in the world and emphasized that the equine industry does wonderful things for the state's youth and never says 'no.'

Mark Buckley, Idaho Horsemen's Benevolent & Protective Association, testified in support of **H 220** reviewing the costs of breeding and raising race horses relative to return in investment. He emphasized the horse racing industry is suffering everywhere, not just in Idaho, citing competition from other entertainment industries.

Jonathan Krutz testified in opposition to **H 220**, stating historical racing would be similar to playing slot machines. He said there is a goal to try to make slot machines legal in Idaho and he urged the Committee to uphold Idaho's Constitution and stop predatory gambling in Idaho.

Representative Perry recapped her presentation by referring to the Attorney General's opinion letter of February 2, 2012, relative to historical racing, which says, in effect, the Idaho Constitution states pari-mutuel betting on horse racing is not casino gambling and, further, that pari-mutuel betting is allowed "if conducted in conformity with enabling legislation." **Representative Perry** thanked the Committee for hearing the legislation and asked for its support.

MOTION: **Senator Siddoway** moved to send **H 220** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Senator Lodge** will carry **H 220** on the Senate floor.

ADJOURNED: There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 9:18 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Jeanne' Clayton

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 15, 2013

SUBJECT	DESCRIPTION	PRESENTER
.	Minutes for February 22, 2013	Senators Lodge and Stennett
RS22170C1	A Unanimous Consent Request to print from the Senate Transportation Committee regarding contiguous state vehicle registration and titling for tribal members.	Senator Brackett
H 192	Relating to Licenses to Carry Concealed Weapons to provide for an enhanced carry concealed weapons license.	Representatives Boyle and Palmer and Senator Winder
H 223	Relating to Concealed Weapons to clarify the law on concealed carry permits for knives and to allow any lawfully possessed taser, stun gun or pepper spray.	Representative Pete Nielsen
S 1126	Relating to Lottery Prizes to allow for withholding and set-off of lottery prize winnings.	Jeffrey Anderson, Director, Idaho Lottery
S 1127	Relating to Bingo and Raffles to meet recommendations made by the Office of Performance and Evaluations.	Jeffrey Anderson
S 1134	Relating to Aeronautics to add a new section addressing the unmanned aircraft system.	Senator Winder
RS22243C1	A Concurrent Resolution to continue an interim committee to monitor energy, environment and technology issues and the Integrated State Energy Plan.	Senator McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 15, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the meeting to order at 8:00 a.m. with a quorum present.

MOTION: **Senator Lodge** moved to approve the minutes of February 22, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 22170C1 A unanimous consent request to print from the Senate Transportation Committee relating to contiguous state vehicle registration and titling.

MOTION: **Senator Werk** moved to print **RS 22170C1**. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

H 192 Relating to Licenses to Carry Concealed Weapons.
Representative Palmer said the purpose of this legislation is to provide for an enhanced carry concealed weapons permit. Training and practice is essential for this enhanced concealed carry permit because of the split-second decision needed if it is necessary to take an individual's life. The National Rifle Association (NRA) supports this bill.

Senator Winder asked Representative Palmer to explain the concept of the enhanced carry permit; the advantages, how it might be carried, and how it impacts reciprocity with other states. **Representative Palmer** stated around 40 states have reciprocity with us so Idahoans can travel while carrying a weapon. **Senator Fulcher** asked if this bill impacts the current concealed weapon permit; is this just another tier? **Representative Palmer** answered that was correct.

Senator Heider stated that the Idaho Sheriff's Association contacted him asking for three changes to the bill; however, they are in favor of the legislation.

1. Renewal notices: the licensee shall be responsible to keep track of their renewal dates and renew their licenses prior to expiration date.
2. Renew the license in whatever county they reside in.
3. An individual who possesses certification may deliver instruction.

Chairman McKenzie asked if an individual's renewal period comes due and they miss that date, would they have to take classes again to receive a renewed license? **Senator Heider** stated that the individual would have to start the process all over again. **Senator Lodge** compared it to renewing a driver's license.

Representative Boyle addressed the amendments from the sponsor's point of view. When the legislation was drafted, they held several meetings where the Sheriff's Association representative was present along with the NRA, legislators and the Fraternal Order of Police. The NRA approved the language in the bill, which is very similar to other states, so that Idaho citizens can carry in other states. It is vital that

a licensee go to the sheriff in their county to renew their license. Renewal notices have been sent out since the concealed weapon process started and renewal is important because without a concealed permit, the penalty is a misdemeanor unlike renewing a driver's license where there is no penalty. If a permit is not renewed within 181 days, then it would require getting a brand new permit. Before the 181 days, a renewal would be filed with a penalty attached. Requiring a law enforcement officer to teach the class is important because they keep their certifications current.

MOTION: **Senator Werk** moved to send **H 192** to the 14th Order for possible amendment. **Senator Siddoway** seconded the motion.

Senator Winder stated that the three amendments to the bill could be worked through and brought back to amend the legislation next year.

SUBSTITUTE MOTION: **Senator Fulcher** moved to amend the motion and send **H 192** to the floor with a **do pass** recommendation. **Senator Davis** seconded the substitute motion. The substitute motion to send **H 192** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Winder** will sponsor **H 192** on the Senate floor.

H 223 Relating to concealed weapons carry permits for knives.

Representative Pete Nielsen opened his discussion with a personal family experience involving a citation issued to a family member for having a knife underneath the seat of a car without a concealed weapons permit. To resolve this issue, **H 223** revises section 18-3302, Idaho Code, on page 4, lines 11-14 to include any knife not exceeding a four- inch blade among other items.

MOTION: **Senator Davis** moved to send **H 223** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will sponsor **H 223** on the Senate floor.

S 1126 Relating to lottery prizes. **Jeff Anderson**, Director, Idaho Lottery (Lottery), stated that the last fiscal year the Lottery had set-offs for Health and Welfare in excess of \$35,000 and in excess of \$13,000 for the Tax Commission. **S 1126** was precipitated by legal action against the Lottery and Health and Welfare due to ambiguity in current statute, specifically 56-203E, relating to the immediate transfer of set-offs to Health and Welfare. This legislation will clarify existing statutory procedure for the Lottery's withholding and set-off of lottery winnings for players who have debts owed to the state. When a player comes in for a high share prize, the Lottery has already run their social security number through the Tax Commission and Health and Welfare and can withhold funds and immediately transfer them to the appropriate agency.

MOTION: **Senator Lodge** moved to send **S 1126** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Lodge** will carry **S 1126** on the Senate floor.

S 1127 Relating to bingo and raffles.

Mr. Anderson stated that the bill contains recommendations made by the Office of Performance Evaluations (OPE). The changes have been essentially broken down into four parts:

1. Structure of the Bingo and Raffle Advisory Board and the Lottery.
2. How the Commission deals with bingos.
3. How they deal with raffles.
4. Dealing with vendors who are licensed to service charitable gaming licensees.

In February of 2012, the OPE made certain recommendations to reduce unnecessary regulatory burdens on nonprofit organizations and the workload of the lottery staff in charitable gaming.

Chairman McKenzie asked **Mr. Anderson** to go through the changes briefly to clarify that they are or are not substantive for the benefit of the floor sponsor. **Mr. Anderson** proceeded to explain each section that had been updated and changed.

Senator Davis asked if, without this language, is there current statutory authority that allows for the contracting of raffles to be conducted by out of state companies. He was surprised that there was a whole cottage industry that has been created and developed around running raffles. Are there companies that help charitable entities run raffles and, if so, to what degree do they participate? **Mr. Anderson** stated that there was nothing that prohibits out of state contracts other than costs need to remain within the statutory limits. There are consultants who help charitable operators understand how to print their tickets, promote the raffle and assist them with the process of conducting a raffle.

Mr. Anderson deferred to **Amber French**, Deputy Director, Idaho Lottery Security Enforcement Division, to provide further explanation. **Ms. French** stated that her division regulates charitable gaming. There is a twofold answer to the question: 1) There are promotional companies which offer services to charities to run their raffles at a percentage. The charity must run the raffle but there are usually volunteers who do not understand the process and could inadvertently break the law. The intention of this statute is to allow charities to raise the money for charitable functions, not for professionals to come in and make a profit from running these raffles. 2) The drawing must be held in Idaho. The states around us also regulate raffles and gambling. If the license is obtained in Idaho but the drawing is held in another state, they are breaking the law in both states.

Senator Davis asked to be pointed to the language in the legislation that the charity cannot hire a third party company to operate their raffles for them. **Ms. French** indicated that 67-7709 (1) (a) clarifies that the charity has to control the fund raising and accounting for bingo gaming. **Senator Davis** stated he did not see any language in 67-7711 to solve the problem that existed prior to the introduction of this bill. **Ms. French** explained that of the new language is for clarification. Unfortunately, these promotional companies have come forth because they were not specifically precluded in statute.

Senator Davis interprets the language so that if this bill were to become law, then professional raffle operators cannot conduct a raffle out of state. They can do everything else to operate the raffle so long as a charitable purpose or entity understands that they are ultimately responsible for the misconduct of that third party. There are no barriers to third party operators other than what is proposed in this bill. **Ms. French** deferred to Tim Davis, Deputy Attorney General.

Mr. Davis, stated his interpretation: "the operator is ultimately responsible for controlling that raffle." There is no expressed prohibition of contracting with a third party but there are limits on what they can do. **Senator Davis** stated that he is not satisfied with the statutory expressions in that policy. Could a company in Florida set up a website and operate a raffle from Florida? When the raffle was completed, would someone in our state have to do the actual drawing of the raffle ticket. **Ms. French** stated that internet gambling is not allowed in Idaho.

Mr. Anderson continued his explanation of the legislation beginning on page 10.

MOTION:

Senator Werk moved to send **S 1127** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. **Senator Davis** stated he would not be supporting the motion. The motion carried by **voice vote**. **Senator Werk** will carry **S 1127** on the Senate floor.

S 1134 Relating to the addition of a new section to define "unmanned aircraft system." **Senator Winder** stated this legislation deals with privacy language to try to protect the rights of the individuals from the improper use of unmanned aircraft system. They have worked out an acceptable amendment to the language in section 1.

MOTION: **Senator Winder** moved to send **S 1134** to the 14th Order for possible amendment. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman McKenzie** passed the gavel to the unofficial Vice Chairman, Senator Lodge.

RS 22243C1 A Concurrent Resolution to continue the Energy, Environment and Technology Interim Committee.
Chairman McKenzie stated that this concurrent resolution will continue the interim committee that deals with issues that have a significant impact on the economy of our state. Policymakers need to be cautious in this arena because of long-lasting and potentially expensive effects on Idaho's economy and it is important for legislators to be informed on energy issues.

MOTION: **Senator Hill** thanked Chairman McKenzie for his years of service on this interim committee and moved **RS 22243C1** to print. **Senator Werk** seconded the motion stating that he has served on this interim committee where they have the time to become informed and carry on informal discussions. The committee has done great work for the state.
The motion carried by **voice vote**.

PASSED THE GAVEL: **Senator Lodge** returned the gavel to Chairman McKenzie.

ADJOURNED: There being no further business, the meeting adjourned at 9:11 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Carol Deis

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 18, 2013

SUBJECT	DESCRIPTION	PRESENTER
<u>RS22269C1</u>	Relating to the Idaho Liberty Preservation Act to add a new section relating to the Federal National Defense Authorization Act of 2012 (Act) to show that certain portions of that Act are invalid.	Senator Pearce
<u>RS22281</u>	Relating to Gaming to revise certain sections pertaining to tribal gaming.	Mike Duff and Robert Bakes, United Families of Idaho
<u>H 193</u>	Related to Prepaid Wireless Communications Service Emergency Communication Fees to provide that certain 911 fees shall be collected by the Tax Commission and transferred to the Idaho Emergency Communications Fund.	Skip Smyser, AT&T
<u>H 183</u>	Relating to Municipal Corporations to remove contradictory language so this section will not conflict with current law.	Representatives Terry Gestrin and Joe Palmer
<u>H 121</u>	Relating to the Idaho Credit Rating Enhancement Committee to make revisions to better reflect the work of the committee.	Jace Perry, Treasurer's Office

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 18, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m. with a quorum present.

RS 22269C1 Relating to the Idaho Liberty Preservation Act presented by Senator Pearce. **Senator Pearce** introduced **RS 22269C1** as the Idaho Liberty Preservation Act that would invalidate portions of the National Defense Authorization Act (NDAA) which gives the federal government the right to apprehend an Idaho citizen, require an appearance before a judge, transport that person anywhere and allows for imprisonment for an indeterminate period of time. **Senator Pearce** went through the bill item by item explaining that the main emphasis is on page 3, line 31 which states that an "employee or agent of this state commits a misdemeanor offense if such person knowingly and willfully enforces or attempts to enforce indefinite detention provisions of the NDAA."

MOTION: **Senator Fulcher** moved to send **RS 22269C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 22281 Related to gaming to revise certain sections pertaining to tribal gaming presented by Mike Duff who is representing United Families of Idaho. **Mr. Duff** explained that the purpose of **RS 22281** is to reaffirm and enforce the gambling regulatory framework of the Idaho Constitution and subsequently, amend Idaho Code. It is necessary for the legislature to make clear the types of games that are prohibited and provide clear guidance for the Lottery Commission. This legislation responds to technological advancements by defining, modernizing and clarifying factors related to electronic imitations or simulations of prohibited gaming devices. It also amends Idaho Code to require legislative approval of future tribal gaming compacts. **Mr. Duff** deferred to former Idaho Supreme Court Justice, Robert Bakes, to discuss the constitutional issues regarding the intent of this legislation.

Judge Bakes provided a history and an analysis going back as far as the Civil War and subsequent events that have occurred to bring Idaho to its current involvement with gambling. (Attachment A). In 1992, an amendment to the Idaho constitution allowed three exceptions to the prohibition on gambling; 1) a state lottery, 2) pari-mutuel betting (horse and dog racing), and 3) charitable bingo and raffle games.

In 2002, via Proposition One, which was an outcome of a federal law allowing casino gambling on Indian reservations, the governor was authorized to enter into compacts with Indian tribes to conduct casino gambling. This legislation does not repeal those sections, it only requires legislative approval of any proposed new Indian compact or amendments to existing compacts. **RS 22281** also creates a new

section 67-429D to authorize the pursuit of the constitutionality of sections 67-429B and 67-429C. **Judge Bakes** urged the Committee to approve **RS 22281** since the legislature is the only body in the state of Idaho that can defend article III, section 20, of the Idaho constitution.

MOTION:

Senator Davis moved to send **RS 22281** to print. **Senator Hill** seconded the motion.

Senator Werk questioned Judge Bakes' reliance on the legislature to determine constitutionality rather than the courts. **Judge Bakes** responded that there is not a clear answer. There were two cases, one prior to Proposition One and another following the passage of Proposition One, where the Supreme Court determined that they had no jurisdiction. The alternative is for the legislature to enact statutes to defend the constitution and prevent activities that violate the constitution.

Senator Werk quoted section 67-429D, "any member of the constitutional defense council...will have the authority...to pursue a declaratory judgment," but the actual statute indicates that decisions of the council are made by a majority vote of the members. This seems to be conflicting. **Mr. Duff** said that in section 8, 67-429D, authority is granted to any member of the defense council to pursue a declaratory judgment action.

Senator Stennett asked who are members of the council. **Mr. Duff** answered that it is the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Attorney General. **Senator Stennett** asked how the earnings, now generated by the gambling industry, would be replaced if this passes. **Mr. Duff** stated that it is unclear that any revenues would be lost. The lottery projections through 2016 show that earnings are stagnate and they need to bring in gaming devices to increase revenues.

Senator Winder asked what was the intent of the sponsors of the bill for this session. **Mr. Duff** stated that they would like to see the legislature renew the framework contained in section 20. This is an important item to ensure that the constitution functions and to prevent negative impacts to the state. They would like to see the bill move as quickly as possible.

Chairman McKenzie clarified that if the Committee moves to print, the bill may come back but it would not be heard this session; that information has been indicated to the sponsors.

The motion carried by **voice vote**.

H 193AA

Related to Prepaid Wireless Communications presented by Skip Smyser who spoke on behalf of his client, AT&T.

Mr. Smyser explained that **H 198aa** has been a collaborative effort of the Idaho telecommunications industry including AT&T, Verizon, TracFone and TMobile, all of whom are represented in the audience. These companies have worked with the Idaho Emergency Communications Commission (IECC), the Idaho Sheriff's Association, the Association of Idaho Counties and many other groups to develop a system for the collection of a fee for the 911 service from the prepaid wireless services segment of phone users that, today, do not pay for the 911 service; and, to do this with a minimum of burden on the retailers.

John Cmelak, Vice President of State Tax Policy-Western Area for Verizon, said he has worked with the State Tax Commission to develop a mechanism for the collection of the fee. The retailer can collect the fee and send it to the Tax Commission with their sales tax payments. The funds will be sent by the Tax Commission to the IECC and they will make quarterly payments to the 911 service.

providers. The retailer will retain three percent for administering the collection of the fees, the Tax Commission two percent and the IECC one percent. The effective date is January 2014.

Senator Werk referred to page 3, sub section (d), "the prepaid wireless E911 fee is the liability of the consumer and not of the seller." How does the fee relate to prepaid wireless cards? **Mr. Cmelak** confirmed what the language says, but added that it goes on to say "except that seller shall be liable to remit all prepaid wireless...the seller collects or is required to collect." This law does require the retailer to collect the money and if they do not, the Tax Commission can hold the retailer liable for failure to collect. **Senator Werk** asked why is this a liability for the consumer, unless collection couldn't be made from the seller. **Mr. Cmelak** concurred. It is a joint and several liability. If it is a purchase for prepaid merchandise, the retailer has the option of making the sale or not if the consumer refuses to pay. In the postpaid world, the customer just deducts the amount off his payment and it is hard to collect. **Senator Werk** asked if the customer would be provided some standard type of notification for the 911 fee if the seller no longer exists and the Tax Commission notifies them that they now owe some additional amount. **Mr. Cmelak** conceded to that possibility.

The intention of the 911 system is to have all users contribute to the funding whether the user knows of it or not.

Senator Fulcher asked if Verizon currently pays the 911 fee. **Mr. Cmelak** said that they do not pay on prepaid but do pay on postpaid. **Senator Fulcher** asked if his Verizon service as well as all other major carriers was considered postpaid. **Mr. Cmelak** agreed. Postpaid wireless has a 911 charge. As to prepaid, his understanding is that they do not pay the 911 fee yet. **Senator Fulcher** asked if part of the purpose of this legislation is to have prepaid services included in the 911 fee collection. **Mr. Cmelak** responded that the purpose of the bill is to have all consumers, whether prepaid or postpaid, contribute to the 911 fund. Right now, only postpaid customers are contributing.

Senator Werk questioned the calculations shown on page 3, lines 22-33. **Mr. Cmelak** explained that the postpaid 911 fee is increased or decreased. The prepaid charge would proportionately increase or decrease so that parity would be maintained. In order for the retailers to mesh the 911 fee into something similar to the six percent sales tax calculations for administrative purposes, the flat fee had to be converted to a percentage. Also, prepaid service can be purchased in smaller amounts and the percentage makes it more fair.

Senator Fulcher stated that if Verizon is wholesaling minutes to "go phone" providers, why not build the fee into those charges. **Mr. Cmelak** explained that the prepaid product is a national product that is sold to companies like TracFone but they also sell to Walmart directly and therefore, lose control of the product. When that product is dispersed to different states, those states have different 911 levies. They can't do state specific pricing.

MOTION:

Senator Hill moved to send **H 193aa** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion.

Senator Werk called attention to a provision on page 4, sub section (3) (b) concerning the three percent the seller can retain. **Mr. Smyser** answered that is a reimbursement for collecting the fee.

Senator Hill stated that this is a separate liability of the consumer that the retailer collects and if the retailer doesn't collect, he still must pay it. It is a liability just as sales tax is a liability. **Senator Werk** had further concerns about notification to the consumer but he will support the bill.

Senator Stennett referred to page 3, line 31, which says the Tax Commission shall provide advanced notification on its website. It is unclear how people would know to go to that website.

The motion carried by **voice vote**. **Senator Fulcher** will carry **H 193aa** on the Senate floor.

H 183

Relating to Municipal Corporations presented by Representative Terry Gestrin. **Representative Gestrin** said that **H 183** cleans up language that was missed in a 2008 bill that declared that the legislature would be the sole authority to regulate firearms with a few exceptions. This bill removes a statute that was enacted in 1967 that gave a city the authority to regulate or punish for concealed weapons. That bill also contained an item related to concealed weapons and that is the statement that is being removed. A city will still be able to regulate other aspects of enforcement for firearms. **Representative Gestrin** stated that he had support for this bill and stood for questions.

Senator Werk questioned whether removing the ability to punish for carrying concealed weapons was the intent. **Representative Gestrin** responded that this does not remove the police powers of the cities or counties, they have the ability to uphold and enforce whatever laws are on the books for the state of Idaho. **Senator Werk** asked if a person was arrested for illegally carrying a concealed weapon, would that case be considered by the city or by the state? **Chairman McKenzie** answered that it would be the same as other state statutes that are violated within the city limits i.e. the city enforces the Driving Under the Influence (DUI) statutes. That process is not being changed. If this bill passes, it will take away the city's ability to pass a city ordinance regulating concealed carry or regulating the penalty for it. The regulation for concealed carry and the penalty is already in state code.

MOTION:

Senator Fulcher moved to send **H 183** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Chairman McKenzie noted that his bill preempted the area of firearms in the state and each of the exceptions were negotiated with the involved parties. This portion of code would have been struck at that time if the section had not been missed.

The motion carried by **voice vote**. **Senator Hagedorn** will carry **H 183** on the Senate floor.

H 121

Relating to the Idaho Credit Rating Enhancement Committee presented by Jace Perry from the Treasurer's Office.

Mr. Perry stated that **H 121** is a cleanup bill that does two things: 1) Allows the Enhancement Committee to meet at the call of the chair instead of meeting at a specific time every six months. 2) Removes the requirement for developing debt forecasts and debt capacity targets since they are not applicable to Idaho because Idaho does not have any long-term debt. Participants in the Enhancement Committee are dissimilar and each agency issues debt for its own purposes.

Chairman McKenzie asked if there was any opposition or votes against the bill as it went through the process or is it something to consider for the consent calendar.

Mr. Perry said there was no opposition. **Senator Davis** noted that there were two no votes in the body across the rotunda.

MOTION:

Senator Siddoway moved to send **H 121** to the Senate floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion.

Senator Winder disclosed that he is a member of the Enhancement Committee.

The motion carried by **voice vote**. **Chairman McKenzie** will carry **H 121** on the Senate floor.

ADJOURNED: **Chairman McKenzie** announced that Wednesday's meeting would be a joint meeting with the House State Affairs Committee in the Abraham Lincoln Auditorium for a presentation. Being no further business, the meeting adjourned at 9:07 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

JOINT
**SENATE STATE AFFAIRS COMMITTEE
AND
HOUSE STATE AFFAIRS COMMITTEE**
8:00 A.M.
WW 02 (ABRAHAM LINCOLN AUDITORIUM)
Wednesday, March 20, 2013

SUBJECT	DESCRIPTION	PRESENTER
	PRESENTATION TO THE JOINT SENATE AND HOUSE STATE AFFAIRS COMMITTEES ON ADDING LANGUAGE TO THE IDAHO HUMAN RIGHTS ACT	Senator Cherie Buckner-Webb and Representative Grant Burgoyne

Please Note Change of Location

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
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MINUTES
**SENATE STATE AFFAIRS COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE
JOINT MEETING**

DATE: Wednesday, March 20, 2013

TIME: 8:00 A.M.

PLACE: WW02 - Abraham Lincoln Auditorium

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk. See House State Affairs Committee Minutes for that Committee's attendance.

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** convened the Joint Meeting of the House and Senate State Affairs Committees (Committees) at 8:01 a.m. with quorums present.

The informational meeting related to adding language to the Idaho Human Rights Act to state that discrimination against sexual orientation or gender identity is a criminal offense and to prohibit discrimination against a person because of sexual orientation or gender identity.

Chairman McKenzie recognized Senator Buckner-Webb and Representative Burgoyne, cosponsors of the proposed legislation, along with Monica Hopkins, ACLU of Idaho, and Hannah Brass Greer, Planned Parenthood Votes Northwest, all of whom were instrumental in organizing this presentation to the Committees.

Chairman McKenzie invited Senator Buckner-Webb to introduce the legislation. **Senator Buckner-Webb** read a letter from Representative Burgoyne, after which she asked that the Committees hear presentations from the scheduled speakers.

PRESENTATIONS: **Don Curtis, Sr.**, Boise, Idaho, took the podium and outlined his background as a former employee of Hewlett-Packard, serviceman and father. He said he and his wife, both of whom are retired, are volunteers for the Idaho Human Rights Education Center and its Anne Frank Human Rights Memorial, where they serve as docents. **Mr. Curtis** spoke of his earlier preconceptions about the lesbian, bisexual, gay and transgender (LGBT) society, but said he had worked for Hewlett-Packard, which is a very enlightened company that regards every employee with equal respect regardless of gender orientation.

He said his son revealed he was gay at the age of 24 when he could no longer live his life as a heterosexual. **Mr. Curtis** said behind every historical violation of human rights lies a fundamental myth that is used to justify those actions. He said failure to grant fellow citizens their full rights under the law simply because of sexual orientation or gender is a case in point.

Ms. Mistie Tolman, co-chair and sponsor of Add the Words, Idaho, spoke about the large numbers of people who think this type of nondiscrimination legislation is good for business, good for families, and generally supported by Idahoans, and why it makes smart legal sense. She said no one should have to live in daily fear of losing their jobs because of sexual orientation. **Ms. Tolman** said the tide of public opinion has turned in favor of fairness and equality, but there are a great many citizens who still do not feel safe in Idaho because of discrimination. She said it would cost nothing to add the words and put Idaho on the right side of history.

Mike Masterson, Chief of Police, Boise, Idaho, said the amendment to the Idaho Human Rights Act (IHRA), would be an important step in advancing trust in the community. He related his experiences with new service providers when he first moved to Boise and said his chiropractor happens to be gay and that he chose this particular chiropractor, not because of his gender orientation, but because he trusted that the chiropractor would relieve his back pain. He said amending IHRA would allow people to trust and feel safe reporting crimes to law enforcement. He said unreported crime perpetuates crimes and nurtures a culture where offenders believe crime is tolerated. He spoke of equality, liberty and justice, with the word "justice" connoting fairness. **Chief Masterson** urged legislators to amend IHRA to provide equality among all Idahoans and ensure trust, safety and justice for all Idaho's citizens.

Jennifer Miesbach, Operations, Hiring and Training Manager at a Fortune 500 Treasure Valley company, spoke of her years working with LGBT employees and illustrated, as an example, an employee who had changed genders and that the change had been fully accepted by coworkers without fanfare. **Ms. Miesbach** said at the end of the day at her company it's the work that matters but, she said, unfortunately not every workplace in Idaho has the same outlook. She stated that just as Idaho protects employees from being discriminated against because of race, creed, religion, sex, age and national origin, Idaho should protect sexual orientation and gender equality as well.

Clark Krause, Executive Director, Boise Valley Economic Partnership (BVEP), reported that last year BVEP was asked to endorse the City of Boise's efforts to ensure that all citizens of the city were protected against discrimination. He said people and families who come to Idaho want to know they will feel welcome and safe. He emphasized his strong belief that protecting people from active discrimination ensures a safe place to work, live and play for all citizens, and said a policy of nondiscrimination is a critical factor for any healthy business community and enormously important in attracting new business to Idaho.

Chairman McKenzie paused in the proceedings to welcome students of government study from the Borah and Eagle High Schools who were in the audience.

Chairman McKenzie asked Dodds Hayden, Hayden Beverage, to speak about his experiences with discrimination as a business owner. **Mr. Hayden** said he has at least two gay employees, both of whom are good workers and fully accepted. He expressed his belief that respect and tolerance are important in the workplace. He spoke of a gay family member and said he has learned that being gay isn't a choice. He said anything an employer can do to make sure all employees are treated equally is good business and good for everyone.

Senator Werk asked Mr. Curtis to explain how the antidiscrimination policy came about at Hewlett-Packard, and the impact it had on employees. **Mr. Curtis** said the policy came about from the highest levels, the Executive Committee and Board of Directors, and that the policy progressed smoothly throughout the company.

Senator Winder asked Chief Masterson about discrimination as it relates to criminal activities. **Chief Masterson** said crimes among the LGBT community are vastly under-reported because of the fear of being "outed" at work or at home. He said it is important that legislators send a message to their constituents about the values of justice and trust.

Senator Winder asked Pamela Parks, Idaho Human Rights Commission, for statistics on discrimination complaints. **Ms. Parks** said data had not been tracked until 2009-2010, and at that time approximately 21 people had contacted their office on discrimination issues. Of those 21 people, about 16 did not file charges because of fear of reprisal. **Senator Winder** asked Senator Lodge if she had gained information on discrimination from her time as Chair of the Health and Welfare Committee. **Senator Lodge** cited the Equal Employment Opportunity statute, Title 7, which protects people from discrimination as far as housing is concerned.

Other questions posed for Ms. Park, Ms. Tolman and Ms. Hopkins related to discrimination complaints and the characteristics of special rights. **Ms. Hopkins** referred to President Linden B. Johnson's statement after enforcing the 1962 Civil Rights Act: "...civil rights is not special treatment but equal rights."

Chairman McKenzie thanked Senator Buckner-Webb and the other organizers of the meeting, as well as the presenters and the audience, stating he understands the passions people feel about this issue and he respects the process of having an open dialogue.

Senator Hill offered his special appreciation and said he believes discrimination is more a matter of heart rather than statute.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

Chairman Curt McKenzie
Chairman, Senate State Affairs

Twyla Melton, Secretary
Assisted by Jeanne' Clayton

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 22, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Minutes for March 1, 2013	Senators Siddoway and Werk
HCR 027	A House Concurrent Resolution for the Printing of the Session Laws.	Representative Richard Wills
HCR 029	A House Concurrent Resolution to Recognize the Idaho Public Utilities Commission on its 100th anniversary.	Representative George Eskridge
RS22307C1	Relating to Initiative and Referendum Elections to allow for a single signature page for each county and then for the county clerk to record the legislative district when signatures are verified.	Tim Hurst, Chief Deputy, Secretary of State
H 090aa	Relating to Retail Sale of Liquor by the Drink to clarify the transfer of licenses and remove conflicting language.	Captain Charlie Spencer, Idaho State Police
H 176	Relating to Absentee Voting to provide voting requirements for overseas electors.	Representative Sims
H 120aa	Relating to the Idaho State Lottery to prohibit the use of credit or debit cards and reverses rules authorizing such action.	Representative Luker
RS22324	Relating to the Capitol Mall to provide that the state of Idaho may exercise its authority to exempt state Capitol Mall property from the city planning and zoning processes.	Senator Winder
RS22336	Relating to Abortion to revise certain provisions related to abortion.	Brian Kane/Clay Smith, Attorney General's Office

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 22, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: Chairman McKenzie called the Senate State Affairs Committee (Committee) to order at 8:02 a.m. with a quorum present.

MOTION: **Senator Siddoway** moved to approve the minutes of March 1. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman McKenzie** passed the gavel to **Senator Lodge** who announced that **HCR 27** was before the Committee.

HCR 27 A House Concurrent Resolution to print the session laws presented by Chairman McKenzie.
Chairman McKenzie stated that **HCR 27** authorizes the printing, binding and distribution of the 2013 Session Laws by Caxton Printers, LTD at a cost of \$30,000 paid from the legislative fund.

MOTION: **Senator Siddoway** moved to send **HCR 27** to the Senate floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Senator Hill** will carry **HCR 27** on the Senate floor.

PASSED THE GAVEL: **Senator Lodge** returned the gavel to Chairman McKenzie.

HCR 29 A House Concurrent Resolution to recognize the Idaho Public Utilities Commission (PUC) presented by Representative George Eskridge.
Representative Eskridge said that on May 8, 1913, the PUC was created to regulate Idaho's investor-owned electric, natural gas, telecommunications and water utilities in order to ensure adequate service at just, reasonable and sufficient rates. **HCR 29** provides for recognition of the history and achievements of the PUC on its 100th anniversary.

MOTION: **Senator Lodge** moved to send **HCR 29** to the Senate floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **HCR 29** on the Senate floor.

RS 22307C1 Relating to Initiative and Referendum Elections presented by Tim Hurst, Chief Deputy, Secretary of State's Office.
Mr. Hurst stated that this is a trailer bill to S 1108 to address a concern that arose during the hearings on that bill. Page 2, line 36 of the bill eliminates the requirement that the petitions must be circulated by legislative district. The petitions will be circulated by county and the county clerk will determine which legislative district that person lives in. That information will be recorded in the voter registration database and the required certificate will be attached. It has nothing to do with the six percent requirement, it only means the petitioners won't be carrying multiple signature boards.

Senator Stennett asked if the burden was on the county clerks to determine the legislative district. **Mr. Hurst** responded affirmatively. When the county clerk verifies the signatures, they can also view the legislative district which is listed right beside the signature.

Senator Werk raised questions on three issues:

- 1) People will still have to track signatures to ascertain the six percent.
- 2) Presuming there is a deadline, what is the time frame?
- 3) Are there associated issues with validating the signatures?

Mr. Hurst responded that referendum petitions can be checked throughout the process so timing is not an issue. The Secretary of State's Office can tell how many petition signatures have been gathered in each of the legislative districts and that data would be available within a day.

MOTION:

Senator Davis moved to send **RS 22307C1** to be printed, assigned a bill number and have a committee report prepared sending it directly to the floor with a **do pass** recommendation without coming back to the Committee. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **RS 22307C1** on the Senate floor.

H 90AA

Relating to the retail sale of liquor by the drink licensing presented by Captain Charlie Spencer, Idaho State Police.

Captain Spencer explained that **HB 90aa** cleans up the Idaho liquor licensing statute to clarify the transferability of certain licenses as well as to number the paragraphs in 23-903. The basis of this bill is to clarify that there are some specialty licenses that must stay with that specific facility but can be transferred to a new owner of that facility. **Captain Spencer** deferred to Pam Eaton who is representing the Idaho Lodging and Restaurants Association, to answer any further questions.

Senator Werk asked if the amendments to this bill are a substantial alteration in current policies and statutes relating to liquor licenses. **Ms. Eaton** responded that it does not.

Senator Hill noted that they have not heard **H 90** so they need to know about that bill before getting to **H 90aa**.

Ms. Eaton reviewed **H 90aa** step by step because **H 90** did not address the original intention. She explained that in 2002, when legislation was drafted to add a specialty license, some language was put at the end of the entire section of the liquor by the drink statute that said licenses could not be sold or transferred. The intent of the language was that specialty licenses were nontransferable. However, the location of that language meant that all licenses would be nontransferable which included the basic liquor by the drink licenses and those have always been for sale and transferable. The error came to light during the 2012 session along with the realization that, if the statute was enforced, all liquor licenses would not be saleable or transferable.

Senator Davis reiterated, step by step, subpart by subpart for both subpart (1) and subpart (2), the changes that would make it clear what **H 90aa** meant. **Ms. Eaton** agreed with his explanations or, where necessary, clarified and further defined them.

Senator Davis emphasized that the intent of the 2002 legislature was only to restrict the ability to transfer a specialty license and was not intended to apply to what is now subpart (1); the concern is that the language is being construed to apply to licenses under subpart (1). **Ms. Eaton** answered that it has not been enforced but it is construed. **Senator Davis** asked if one of the primary purposes of this bill is to provide limitations or restrictions on specialty liquor licenses but to make it very plain that those restrictions do not apply to the licenses under subpart (1). The question

is, do we believe that, as a public policy, there should be a restriction on the ability to transfer specialty licenses and, if so, define what those restrictions are going to be? **Ms. Eaton** agreed.

Ms. Eaton continued to explain that language was inserted on page 4, line 50 and page 5, lines 1 and 2 to say that the traditional licenses in the section may be transferable and that all other licenses in this section, which are specialty licenses, are not transferable except the change on line 2, page 5 which added the language "to any other location, facility or premise." This clarified that the license could be transferred between owners at the same property but the license could not be moved somewhere else.

Other clean-up efforts removed any existing nontransferable language in those individual subparts for each specialty license. This language is not needed since the language in subpart (12) applies to all specialty licenses.

TESTIMONY: **RaeLeen Welton**, Idaho License Beverage Association, testified in support of H 90aa.

Senator Lodge asked if the quota system licenses in subpart (1) will be more valuable since they can continue to be sold. **Ms. Welton** confirmed that quota system licenses are transferable.

Senator Davis referred to page 4, subpart (12), with two issues:

1) How are sections 23-910 and 23-904 relevant?

2) Why wasn't the exception language put into its own subpart (13)?

Ms. Welton deferred to Russ Westerberg.

Mr. Westerberg, Hagadone Corporation (hospitality), responded that 23-904 pertains to the background check which every liquor license holder must pass. The sale of a new property with a specialty license can only transfer that license with the condition that the new owner must pass the background check just as everyone else does. Section 23-910 refers to the fees that go with those licenses and, currently, those fees are the same as for golf courses.

Mr. Westerberg also addressed Senator Lodge's question on the value of the licenses. **H 90aa** adds nothing to the value of the quota licenses that have always been there by common understanding. There was a codification error in 2002 putting that nontransferable language at the end of the section. The removal of that language maintains the value but doesn't add any value.

MOTION: **Senator Werk** moved to send **H 90aa** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will sponsor **H 90aa** on the Senate floor.

H 176

Relating to Absentee Voting presented by Representative Kathy Sims.

Representative Sims explained that **H 176** amends section 34-1001, voting by absentee ballot. It defines the terms and voting requirements for the overseas elector as set forth under section 34-107.

Section 34-107 defines a resident as one who has a principle, primary place of habitation with the intent to remain there although, sometimes absent. If that resident has moved to another state or territory with the intention of making it permanent, he or she shall lose residency in Idaho. The intent of **H 176** is to clarify that someone with dual citizenship does not qualify as a resident under 34-107 but they are allowed to vote in federal elections. Military personnel, students or missionaries can vote in all elections. This bill clarifies for county officials, that dual citizenship voters should only receive a Uniformed and Overseas Citizens Absentee (UOCAVA) ballot.

Senator Stennett asked why those absentee residents should not have a vote in local entities when they contribute to the community as property owners and, as such, pay taxes that support the community? **Representative Sims** stated that, according

to current code, they must qualify as a resident to vote. This bill does not change definitions, it just clarifies to the clerks the code definitions that dual citizens should only receive the UOCAVA ballots.

Senator Werk asked, if this bill is passed, would there be a need for separate ballots for those overseas electors and how many voters would this affect? **Representative Sims** agreed it would require separate ballots but could only answer for her area along the Canadian border and that would be about three dozen. **Senator Werk** quoted the fiscal note as having no fiscal impact to the state; but, there would be a cost to the county to provide separate ballots. **Tim Hurst**, Secretary of State's office, stated that the county actually prints the ballots and there would be some additional costs but there are so few of them required, cost would be minimal.

Senator Werk referred to the "snowbirds" and asked how these provisions would affect those people who have primary residences in more than one place. **Representative Sims** responded by quoting 34-107 and said that the resident would have to decide and identify which is the permanent residence. **Senator Werk** asked about a person who was out of the country for ten years but had every intention of returning. **Representative Sims** again quoted 34-107 and noted the reference to the intention to return regardless of the length of the absence.

MOTION: **Senator Davis** moved to send **H 176** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Werk** were recorded as voting no. **Senator Nonini** will carry **H 176** on the Senate floor.

H 120AA Relating to the Idaho State Lottery presented by Representative Lynn Luker. **Representative Luker** explained that **H 120aa** would restrict the use of credit and debit cards for the purchase of lottery tickets through customer operated machines but would allow the use of debit cards for over-the-counter retail purchases of lottery tickets. Idaho has a constitutional provision that prohibits gambling with three exceptions: para-mutual racing, bingo and charitable gaming, and the government operated lottery. The purpose of the lottery is to accumulate educational funding but it must be balanced against the prohibition against gambling.

A study by Professor Earl Grinols, Baylor University, identified nine hidden costs related to gambling. (See Attachment I) Other studies have projected the same costs both in dollars and social costs. The National Council on Problem Gambling noted that two and one-half percent of American adults are problem gamblers which is almost equal to alcohol abuse. An article by an economist, George Logenstien, in the September 11, 2008 issue of the Scientific American provided some insight on using "plastic" versus cash.

Senator Davis said that if this became law, it would not be possible to buy gas, a donut and a lottery ticket with a debit or credit card on one transaction. The lottery ticket must be purchased with cash. **Representative Luker** said that was partially correct. If a debit card is used, it is considered as cash. The credit card could not be used for the purchase of the lottery ticket.

Representative Luker stated it is the State's obligation to protect against social costs and allow the lottery to continue to operate. That is the purpose of this bill.

TESTIMONY: **Jonathan Krutz**, a Board Member of both the Stop Predatory Gambling Foundation and Stop Predatory Gambling Idaho, testified in support of **H 120aa** and submitted a copy of his testimony in writing.

Grant Ipsen, Member of the National Board of Directors, Stop Predatory Gambling and the current President of the Idaho Chapter, spoke in support of **H 120aa** and submitted a copy of his testimony in writing.

Pam Eaton representing Idaho Retailers Association, testified in opposition of **H 120aa**. **Ms. Eaton** stated that the lottery is a legal product that the legislature has authorized and credit cards are legal tender. This bill allows government to tell retailers that they can no longer accept this legal tender in payment of this legal product. Currently, many retailers do not accept credit cards for lottery tickets because the purchases are smaller than the fee the retailer would pay on the credit card transaction. However, they do allow lottery tickets to be purchased with credit cards in conjunction with other purchases. The retailer wants to keep the line moving at the cash register. Adding the additional transaction will slow those lines down.

Ms. Eaton was not denying the problems as seen in the studies with gambling; but, it is not necessarily lottery. Many people are occasional lottery purchasers and if they have to do a separate transaction, it is not important to them so they will not buy a lottery ticket. The state will lose a lot of money that goes to fund the schools. This will not stop the problem gambler.

Senator Hill asked if there is a sign on the door that says the retailer will accept credit cards, can they deny a credit card purchase of a lottery ticket. **Ms. Eaton** stated they can put a limit on the lowest amount they would allow for a credit card transaction as long as it was posted at the cash register.

Jeremy Chou, Givens Pursley LLC, representing Intralot U. S. A., Inc. who is a vender for the lottery and manufactures some of the customer operated machines. **Mr. Chou** noted that many of the reports referred to have to do with casino gambling not lottery. The average purchase for lottery tickets here is \$3.

Mr. Chou recognized that there is a preference to hold the line as far as the lottery goes. This legislation creates new restrictions for the lottery and it also restricts the machines. The lottery machines currently do not accept credit or debit cards and there is no intention to do so. They would propose that an amendment be considered to remove the restriction on the use of credit cards for retailers.

Suzanne Budge, SBS, representing the Idaho Petroleum Marketers & Convenience Store Association, testified in opposition to the bill. The confusion between debit and credit cards has been heightened by the federal settlement and lawsuits that are at issue nationally. Many of their members deny credit and debit cards for lottery, especially when it is a lottery only purchase and she echoed **Ms. Eaton's** comments and concerns.

Senator Werk inquired if there was anything that was not working with the current system? **Ms. Budge** stated it is up to the individual merchant to determine when circumstance open opportunities to provide a convenience for the consumer; that is what the retailer wants to do. As a matter of fact, the transaction can be made once you get cash back.

MOTION: **Senator Davis** moved to send **H 120aa** to the floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion.

SUBSTITUTE MOTION: **Senator Werk** made a substitute motion to send **H 120aa** to the 14th Order for possible amendment. **Senator Stennett** seconded the motion. For lack of a clear voice vote, **Chairman McKenzie** called for a roll call vote. Senators Davis, Fulcher, Hill, Winder and Siddoway voted nay. Senators Lodge, Stennett and Werk voted aye. The substitute motion failed.

Chairman McKenzie called for the vote on the original motion to send **H 120aa** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. **Senator Mortimer** will carry **H 120aa** on the Senate floor.

RS 22324

Relating to the Capitol Mall garage project presented by Senator Winder.

Senator Winder stated that **RS 22324** concerns the construction of the parking garage which is time and money sensitive. Bonds have been issued and there is a significant delay that is occurring within the city process along with some associated appeals. The intent is not to exercise a nuclear option but to provide for a backup in an emergency. Meanwhile, the Department of Administration and the Legislative Service Office are encouraged to continue to work with Boise City toward a timely resolution. If the time arrives that the project will be jeopardized or the funding is at risk, this legislation will allow the Building Authority to preempt the city's planning and zoning oversight.

Senator Stennett asked for clarification on jurisdiction. **Senator Winder** said this applies to state owned property only, and would exercise the supremacy of the state over its own property. **Senator Stennett** asked if this bill prohibits our ability to manage services around or to the Capitol Mall. **Senator Winder** said it did not. It is related to timing issues that are delaying the construction of the parking facility. It wouldn't impact public or private utility services.

Senator Werk emphasized that this is an exemption from all local planning and zoning ordinances; that would include all access and egress onto public areas so it would include everything about a structure on the Capitol Mall. Would the Capitol Mall be outside the control of any local agency regardless of the issue i.e., safety or design issues. **Senator Winder** responded that it doesn't exempt the safety issues or access issues to the public rights-of-way that are under the jurisdiction of the Ada County Highway District (ACHD); that is not the intent of the proposal.

Senator Werk commented that the parking garage and the curb cuts providing access and egress would be on state property; ACHD would control the roads. **Senator Winder** responded that ACHD property would have to meet the requirements of the curb cut design, standard of distances and related safety issues.

MOTION:

Senator Fulcher moved to send **RS 22324** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senator Werk** was recorded as voting no.

RS 22336

Relating to Abortion presented by Senator Fulcher.

Senator Fulcher noted that this bill is coming from the Attorney General's office and is intended to make some technical corrections and coding updates to code that was enacted in 1973. It addresses some constitutional challenges that were raised in some recent litigation.

MOTION:

Senator Hill moved to send **RS 22336** to print. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**. **Senator Werk** was recorded as voting no.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 9:50 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 25, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Minutes for February 20, 2013	Senators Fulcher and Davis
<u>H 222</u>	Relating to Veterans to add a new chapter creating the Idaho Veterans Recognition Fund and the Idaho Veterans Recognition Income Fund which is to be used to benefit Idaho veterans.	Representative George Eskridge and Senator Marv Hagedorn
<u>HCR 025</u>	A House Concurrent Resolution recognizing Owyhee County for its sesquicentennial anniversary.	Representative Richard Wills
<u>H 215</u>	Relating to Ballots to modify the way ballots are identified as official by incorporating newer ballot technologies.	Chris Rich, Ada County Clerk
<u>H 202</u>	Relating to the Idaho Administrative Procedure Act to require the tax commission to describe both positive and negative fiscal impacts of more that \$10,000 to the general or other funds.	Representative Grant Burgoyne
<u>H 258</u>	Relating to Licenses to Carry Concealed Weapons to provide that an applicant may obtain a copy of the results of a record check under certain conditions.	Representative Christy Perry
<u>H 257</u>	Relating to Beer and Wine to revise a provision for the acceptance and use of electronic funds transfers.	Jeremy Pisca, Idaho Beer and Wine Distributors Assoc.

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 25, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.

H 222 Relating to Veterans and the creation of the Veterans Recognition Fund presented by Senator Marv Hagedorn.

Senator Hagedorn said that **H 222** authorizes the transfer a certain amount from the Division of Veterans Services' cash balance to a longer term bonding account creating a secondary account; and, on June 30 of every year, the interest from the \$20 million will be swept into an expenditure account. A board made up of veterans that will determine how those monies will be spent focusing primarily on disabled veterans. **Senator Hagedorn** provided a detailed explanation of how the \$20 million was accumulated from the per diem federal reimbursement rates. This bill is being proposed in anticipation of the veterans that will be returning home over the next five years. (See Attachments A and B)

Senator Stennett asked for some examples of what the funds would be used for. **Senator Hagedorn** responded that they could dedicate funds toward memorials or memorial maintenance around the state, funds could be used for indigent care for homeless veterans or funds could be used for education. The focus will be transitioning veterans and ensuring that those that need help to be successful in society will get the support they need. **Senator Stennett** requested more detail on the funds and how they arrived at those numbers. **Senator Hagedorn** deferred to David Brasuell, Administrator of Audit, Idaho Division of Veterans Services (IDVS).

Mr. Brasuell stated that the recommendations for the use of the fund for the projects that will support veterans in the state would go to the Idaho Veterans Affairs Commission which has five members. **H 222** would add two more members to that commission, one a disabled veteran and one would be a veteran from a current conflict. The IDVS supports the bill as a prudent and far-sighted approach to recognizing and serving Idaho veterans for many years to come. There is a wave of veterans coming back to the United States as the result of the downsizing of the Department of Defense and they are going to need some care. The Veterans Administration cannot do the job themselves although they do a great job. Stakeholders from the community agree that there needs to be a sustainment of resources in the years to come.

Senator Hagedorn noted that the \$20 million is not the full amount in the current fund; there is \$30 million. The \$10 million stays in the current Veterans Services account as operating capital for those veterans currently in homes. Over the course of many years, they hope to accumulate enough funds to build a fourth veterans home and expand the veterans cemetery.

Senator Werk noted that there is a reference to a higher rate of return; how will you get that higher rate? **Senator Hagedorn** explained that the current account gains about one percent. The objective is to move a portion of the funds to an account that gains two to five percent interest and that is what they would sweep each year for the secondary account. **Senator Werk** asked why the legislation doesn't set up the use of the account similar to the Millennium Fund. **Senator Hagedorn** answered that they didn't want to put a cap on the \$20 million because of the timing required when they do need to spend some of the capital on a major project.

Senator Werk referenced 65-705 (c) regarding the allocation plan and asked if the legislature will need to approve the allocation and the use of those funds through the budgetary process. **Senator Hagedorn** concurred. The fund will be run similar to the Millennium Fund. The board would recommend the expenditures, they would go to the Gentleman on the Second Floor, those would become recommendations to Joint Finance and Appropriations Committee (JFAC), JFAC would write the budget and the legislature would approve those.

MOTION: **Senator Siddoway** moved to send **H 222** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Senator Hagedorn** will carry **H 222** on the Senate floor.

H 202 Relating to the Idaho Administrative Procedure Act presented by Representative Grant Burgoyne.

Representative Burgoyne provided a brief history about how this bill came about through a discussion with the House Revenue and Taxation Committee and the Idaho Tax Committee as to the possibility of a positive fiscal impact on a bill. The conclusion was that it would be appropriate to amend the Administrative Procedures Act to require the Tax Commission to disclose in rule-making, the rules' positive fiscal impacts and, positive and negative fiscal impacts of \$10,000 or more beyond the general fund. Present law only requires agencies to record negative fiscal impacts to the general fund of \$10,000 or more. The Tax Commission requested a two year sunset clause for a review period to determine if the change should continue.

MOTION: **Senator Werk** moved to send **H 202** to the Senate floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Siddoway observed that, although the bill does not show a fiscal impact, someone has to review all legislation and that could mean additional help would be required. **Representative Burgoyne** stated that this will impact the Tax Commission's own rule-making. He supposed that there would not be a fiscal impact because when someone was determining a negative impact, if there was none, it would be determined to be a positive fiscal impact. **Senator Siddoway** asked for a timeline on how that would affect the movement of legislation. **Representative Burgoyne** stated that this will have no impact on legislation; this only relates to the Tax Commission's own rules.

Senator Davis asked why this bill is limited to only the Tax Commission; why wouldn't it apply to all departments? **Representative Burgoyne** responded that they did consider that question. However, with the two year sunset, it could be tried with the Tax Commission and that issue could be revisited at that time in 2015. Currently, there are discussions about whether this should be broadened to other agencies. **Senator Davis** stated that "negative impact" is in the eye of the beholder depending on whether the object is to "starve the beast" or to "grow the beast."

The motion carried by **voice vote**. **Senator Werk** will carry **H 202** on the Senate floor.

H 215 Relating to Ballots presented by Chris Rich, Ada County Clerk.

Mr. Rich said that **H 215** is supported by Idaho Association of Counties and the Secretary of State, and deals solely with optical scan ballots. The bill is designed to

put into statute the practice at the polls combined with technology to improve ballot security so that someone cannot take a live ballot from the polls and duplicate it. Most of the changes are removing the references to "stamp" and replacing it with "election ballot identification." **Mr. Rich** explained the current balloting process in detail. If a voted ballot gets to the election center without a stamp on it, it would be presumed to be stolen or counterfeit and shouldn't be counted. This process would continue for counties using punch cards or paper ballots. Twenty-five counties in Idaho use optical scan ballots. Those ballots have an optical reader mark on them that cannot be copied. This ensures that stolen or counterfeit ballots couldn't be counted.

Senator Siddoway asked if the ballots that are rejected are reviewed. **Mr. Rich** said they do not check them. Those ballots that are missing a stamp are counted because they are interspersed throughout all the ballots and someone probably forgot to stamp them. The live ballots are reconciled with the number of ballots that are handed out at the polls.

Senator Davis asked how this bill would affect a punch card and would a stamp would still be an identifying mark? **Mr. Rich** responded that a punch card would not be affected. They would continue to be stamped. Bonneville County is one of four counties in the United States that still uses punch cards and a card would be very difficult to find.

Senator Werk asked if there is a way to distinguish the way a ballot is read. It would not be a good thing to have a ballot disqualified for the lack of a stamp. **Mr. Rich** explained how an optical scanner works for the optical scan ballots, and that punch cards or paper ballots are stamped become live ballots and are actually read by a group of people at the polls. There are numerous challenges at the polls with worker turnover and training issues.

MOTION: **Senator Siddoway** moved to send **H 215** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **H 215** on the Senate floor.

HCR 25 A House Concurrent Resolution recognizing Owyhee County presented by Representative Richard Wills.

Representative Wills stated that **HCR 25** recognizes Owyhee County as one of the first counties in the state. The sesquicentennial celebration will be held at the annual Outpost Days in Murphy, Idaho. The House Concurrent Resolution will help them recognize their entrepreneurship and the time they have spent to make Idaho a sesquicentennial state.

Senator Hill noted that Idaho is celebrating its sesquicentennial as a territory; was Owyhee County a county at that time? **Representative Wills** said that was his understanding. **Senator Davis** said it became a county toward the end of 1863. Discussion followed about how the name Owyhee was derived and the beauty of the county.

MOTION: **Senator Lodge** moved to send **HCR 25** to the Senate floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senator Brackett** will carry **HCR 25** on the Senate floor.

H 258 Relating to Licenses to Carry Concealed Weapons presented by Representative Christy Perry.

Representative Perry stated that **H 258** is a bill that is constituent-driven as a result of some confusion when a recipient of a concealed weapons permit requested a copy of his background check. The county responded that they didn't do that but the Idaho State Police (ISP) conducts the check and they could provide

a copy. ISP disagreed and sent him back to the county. ISP said they could have a copy, the county couldn't find anything that was in statute that was specific so they were cautious and would not give out a copy. After some research, specific language was added so it was clear that the counties could provide an applicant with a copy of their background check. The Sheriff's Association supports this as does the ISP and the sponsors of the bill also checked with the Federal Bureau of Investigation (FBI).

Senator Stennett asked to what degree would this be public knowledge.

Representative Perry responded that it is not allowable to make a public records search of someone else's information, that is protected under Idaho Code. It is for the applicant only.

Senator Fulcher asked why there was some opposition from the National Rifle Association (NRA) and that the ISP said it is a conflict with how they use their National Criminal Information Center database. **Representative Perry** answered that the issue did not come up until after the bill was passed in the House. **Representative Perry** received a letter that stated clearly that the language had been checked by the Sheriff's Association, ISP and FBI. There is no conflict. This is a civil issue and a citizen can have a copy of their own background check in civil issues. The NRA was not contacted, but the Sheriff's Association, ISP and FBI were contacted and all supported the bill.

MOTION: **Senator Hill** moved to send **H 258** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **H 258** on the Senate floor.

H 257 Relating to Beer and Wine presented by Tyler Mallard, Risch Pisca LLC, representing the Idaho Beer and Wine Distributors Association.

Mr. Mallard explained that **H 257** is being brought to the Committee by the Idaho Beer and Wine Distributors Association, the Northwest Grocery Association, the Idaho Retailers Association, and the Idaho Petroleum Marketers and Convenience Stores Association. **Mr. Mallard** submitted a letter signed by each of them for the record (Attachment C).

Mr. Mallard referred to the three tier system as used in the manufacture, distribution, and selling of beer and wine products that currently requires that those products can only be distributed to the retailer and paid for by cash at the time of delivery. Currently, payment by electronic funds transfers (EFT) is considered as a cash transaction if it is initiated...as reasonably practical, but no later than five business days. **H 257** removes the "as reasonably practical" language because it has proved to be administratively difficult to enforce. This bill is not designed to give an extension of credit, but only to facilitate EFT transactions.

MOTION: **Senator Lodge** moved to send **H 257** to the Senate floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**. **Senator Lodge** will carry **H 257** on the Senate floor.

MOTION: **Senator Fulcher** moved to approve the February 20, 2013 minutes. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** thanked the Committee for getting through the business quickly. There will be a meeting on Wednesday. Being no further business, the meeting adjourned at 8:55 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 27, 2013

SUBJECT	DESCRIPTION	PRESENTER
	Minutes for March 4, 2013	Senators Winder and Stennett
HCR 20	A House Concurrent Resolution rejecting a final rule of the State Athletic Commission.	Representative Jason Monks
HCR 18	A House Concurrent Resolution calling upon the Department of Administration to develop a contract management plan.	Representative John Rusche
H 231aa	Relating to Public Works to provide an exception to the employment of Idaho residents in public works.	Stuart Davis, Idaho Association of Highway Districts
H 245	Relating to the State Athletic Commission to allow the Athletic Commission to recover certain costs and fees and to increase the initial event tax and event tax percentage and to provide for an independent ticket distributor.	Commissioner Tom Katsilometes and Tana Cory, Bureau of Occupational Licenses
S 1192	Relating to the Capitol Mall to provide that the state of Idaho may authorize certain exemptions from the statutory provisions of the city planning and zoning processes.	Senator Winder
Presentation	Page Graduation	Chairman McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 27, 2013

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 with a quorum present. The agenda may be adjusted as the meeting progresses to accommodate moving **S 1192** to the floor. Minutes will be deferred until the end of the meeting.

HCR 20 A House Concurrent Resolution rejecting a final rule of the Athletic Commission presented by Representative Jason Monks.

Representative Monks said Docket No. 03-0101-1201, Rule 107 (07) pertaining to female combatants and the annual physical examination requirements for any age, which includes an examination of the pelvis as well as breast exams is being rejected. The sponsors' concern was with young girls undergoing those examinations. It was thought that those decisions should be left to the physician doing the examination. There are no specifications for male combatants so there should not be any for female combatants.

Senator Stennett asked if there was anything that specifies the process with parental consent for underage combatants. **Representative Monks** was not aware of any parental option under this rule.

Senator Davis asked what the Committee did on this rule. **Chairman McKenzie** stated that we approved them but this area had the most questions; the provision was not specifically rejected. **Senator Davis** asked why the House rejected the rule? **Representative Monks** answered that there were two issues: 1) A pending fee rule that was rejected by the House; and, 2) Removing existing Rule 107 (07). **Senator Davis** stated that they are not being asked to reconsider what the Committee did in 2013, but the bill is asking that an existing rule be struck, not because an annual exam is inappropriate, but because it is exclusively for a female combatant. There still would be a physical exam for female combatants, just not this specific. **Representative Monks** said that is correct. The physical exam is contained in a previous section which states that all combatants are to have annual physical examinations.

Senator Stennett recalled that the previous discussion was that this examination was to confirm whether a female was pregnant or not. Why isn't that important? **Representative Monks** responded that there are many things a physician must know when a combatant is going in to fight yet none of those are specified by statute; they are left to make the appropriate decision as to what to look for and, for female combatants, it should be the same. In addition, there is no age restriction. **Chairman McKenzie** referred to (03) (a) which states that females must submit to a pregnancy test.

Senator Werk confirmed that any pre-contest examination happens regardless of (07). Is this removing the requirement for a female to have an annual physical examination? **Representative Monks** answered no. **Senator Werk** asked for the exact language for those provisions and do they provide latitude for physicians to do what they think proper. **Representative Monks** stated he did not have that information with him. He deferred to Tom Katsilometes to answer that question.

Mr. Katsilometes, Commissioner, State Athletic Commission, answered that physicians around the state are happy with this change. They still have to do the examination for all combatants but the female combatants do not have to have the specific examinations required by Rule 107 (07) and they still must go through the pregnancy test.

MOTION: **Senator Davis** moved to send **HCR 20** to the Senate floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **HCR 20** on the Senate floor.

HCR 18 A House Concurrent Resolution for the Department of Administration to develop a contract management plan presented by Representative John Rusche. **Representative Rusche** outlined the requirements for the Department of Administration (Department) to develop a plan to improve the management of state contracts. The Office of Performance Evaluation (OPE) reviewed Idaho's contracting process and released a report strengthening contract management which presented several opportunities for improvement including best practice checklists, enhanced training, project review and improved risk management. The report led to this resolution to report and improve contract administration. The plan that is developed may or may not require statutory changes and will be presented to the legislature in January 2014.

Amy Lorenzo, Office of Performance Evaluation, reinforced the idea that this resolution will help address some of the preliminary concerns of the report and further encourage the Department's authority to implement the recommendations.

MOTION: **Senator Werk** moved to send **HCR 18** to the Senate floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Chairman McKenzie** will carry **HCR 18** on the Senate floor.

S 1192 Relating to the Capitol Mall to provide certain exemptions related to the city planning and zoning process presented by Senator Chuck Winder. **Senator Winder** explained that **S 1192** is related to a parking structures where bonds have been sold and the state is going through the appeals process for design with the City of Boise. As a final effort to maintain the budget and available funding for the project, this bill authorizes the building authority to make a decision to continue the project should they not reach an acceptable agreement with the city. **S 1192** was presented to cover all the Capitol Mall property on an ongoing basis. However, **Senator Winder** would like to amend the bill to make it specific to the one parking garage structure with a sunset for June 30, 2014. That removes the fears that this is a blanket exemption for all Capitol Mall properties. With these changes, **Senator Winder** is requesting that the bill be sent to the 14th Order for possible amendment.

Chairman McKenzie stated that there are five people signed up to testify on this bill and asked them to be as concise as possible.

TESTIMONY: The following people testified in opposition to **S 1192**:
Dave Everhart, Advocacy Chairman, Preservation Idaho
Maryanne Jordan, President, Boise City Council
Holli Woodings, District 19 and North End Neighborhood Association

Scott Schoenherr, Rafanelli and Nahas Developers and President, Downtown Boise Association

Dana Hofstetter, Hofstetter Law Office LLC

Mr. Everhart ask the Committee to protect the sovereignty of the of the communities in Idaho and the historic resources they strive to recognize. The Capitol Mall and specifically the block under consideration abuts and includes three separate historic districts which includes two nationally recognized historic districts. **S 1192** has the potential to directly impact the distinctive historic architecture of these districts by sidestepping the procedural reviews. This measure will have long term impacts on historic resources within and around the block. The bill also sets an unhealthy precedent that could have repercussions around the state.

Senator Winder stated that they are still instructing all staff to work with the city through these issues and this is a "last ditch effort" if a final conclusion cannot be reached.

Ms. Jordan spoke about the process through her experience on the Boise City Council and as a former member of the Planning and Zoning Commission. When acting in the public sector, it is important to remember that things must slow down to meet certain requirements. She went through the details of the process for a proposed project. **Ms. Jordan** explained that there are multiple opportunities for solutions. This particular property is working its way through the process and she wants to see it continue.

Senator Fulcher referred to another project where a bus depot was proposed in an area across from the Capitol. Was the city involved with that planning and what was the process and status? **Ms. Jordan** stated that the city has been very involved in planning the Multi Modal Center (MMC) and securing federal funding. They have worked with various partners to analyze various locations. This will include facilities for transit, transit drivers and a police precinct. They are looking for partnerships and locations. **Senator Fulcher** asked if Ms. Jordan viewed that as an appropriate location. **Ms. Jordan** said that will ultimately come to the city council for a decision and there will be a public hearing involved in the location of that facility and she can't predict what the decision will be. It is an appropriate location to investigate.

Senator Fulcher asked if she would be comfortable for those administrating the Capitol grounds to have a voice in that decision. **Ms. Jordan** responded that would be imperative.

Representative Woodings asked to uphold Idaho's commitment to local control of local functions. Boise City's design and review process is fair, balanced and designed to protect property rights. It does not warrant state interference. The state has failed to pursue the project in a way any other business would; the project is adjacent to the most historic structures; the new structure is located next to historic neighborhoods; and, the state is asking for special exceptions. We request that this issue run its course through the existing process without intervention.

Mr. Schoenherr stated that Rafanelli and Nahas is one of the largest downtown developers investing over \$50 million in the downtown over the past few years and has built the only privately funded parking garage in downtown. They have been through the process the state is now dealing with and found it time consuming but reasonable, and it helped them to improve their design. Timing and budget issues apply to all projects and it is important to build this garage because it is needed. However, **Mr. Schoenherr** stated his concern with the precedent that is being set.

Ms. Hofstetter said both she and her husband have been involved in the process because they thought the project would impact the community and the neighborhood and felt it could be done better. No one involved in the process is against additional parking in the area, the issue is how it should be done not whether it should be done. **Ms. Hofstetter** recapped the process so far. The city has approved the conditional use permit and variance as is. Planning and Zoning (PZ) is separate and there the state has encountered opposition from the city. The architect who reviewed the design believes elements could be added that would be fitting for the area. The process is working. Compared to the existing state parking garage, this project could be better.

Senator Werk stated that the most disturbing element is obtaining financing before getting the construction permits. Why did that happen? **Jeff Youtz**, Director, Legislative Services Office and a member of the Capitol Commission, responded that this is a bill that probably will never be used. The last appeal occurs in late April after the legislature is gone so if there are decisions made by the city council that will require a change, additional money or going back to the drawing board, they will have to wait a year for the legislature to come back. **Mr. Youtz** agrees with the statements made by the people who have testified. The state's public works officials are working with Boise City and, as a result, have improved the project. They are intending to make some vertical and aesthetic changes at the City's recommendation and plan to follow the regular process through.

Mr. Youtz said that the bonds have been sold and they are to be retired by the users of the parking facility so if it is delayed the state must begin making the bond payments. When the project started last year, the bonds were at historically favorable interest rates. Hopefully, this will all work out with local government but it was felt there was a need for back up in case the project might be delayed.

Senator Werk restated his question. **Mr. Youtz** responded that it isn't inappropriate. Bonds were authorized for the restoration project prior to the actual design build details. **Senator Werk** asked about the authority to bond; does that mean bonds have to be purchased? **Mr. Youtz** said that the concurrent resolution required to authorize the bonding simply says the State Building Authority has the authority to work with the Department of Administration to bond for this particular project. Normally there is a budget ceiling; in this case with this project it was \$8 million. There is also a legislative section in the bonds explaining that the bonds will be retired through parking fees.

Senator Werk said his impression is that there is not enough money to substantially change the design and the skin of the building, which seems to be the issue, because the design was completed and the bonds let prior to the process required by the city. **Mr. Youtz** agreed. They are working with the city and have made some changes which will be good if they don't have to have a redesign that won't fit into the budget and accommodate the necessary parking spaces. Unfortunately, they won't have an answer until the appeal is heard in late April.

Senator Winder closed stating that no one intentionally designs something they don't think will meet the standards. The Planning and Zoning standards have been met. The architects' decision regarding the design is subjective. The staff recommends approval of the design that has been appealed.

Every effort will be made to work through this process so this legislation will not be needed. The proposed amendments have limited the bill to only the garage project so it won't have such far reaching results.

MOTION:

Senator Winder moved to send **S 1192** to the 14th Order for possible amendment. **Senator Hill** seconded the motion.

Senator Winder stated that because of the potential changes, there will be a new Statement of Purpose to go with the bill should the amendment be accepted.

Senator Werk stated his appreciation for the changes that are being made. This is an upsetting piece of legislation because the state's lack of planning has placed the legislature in a state of emergency. This is not a good precedent to set.

The motion carried by **voice vote**. **Senator Winder** will sponsor **S 1192**.

H 231AA

Relating to Public Works to provide an exception to the employment of Idaho residents presented by Stuart Davis, Executive Director, Idaho Association of Highway Districts.

Mr. Davis explained that **H 231aa** allows political subdivisions to have the same authority as the state to go out of state to secure goods or services if there is no current contractor available within the state. If there is a vender in the state that offers the service, that vender must be used. He is not aware of any opposition to the bill.

MOTION:

Senator Siddoway moved to send **H 231aa** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. **Senator Siddoway** will carry **H 231aa** on the Senate floor.

H 245

Relating to the State Athletic Commission allowing the recovery of costs presented by Tom Katsilometes.

Mr. Katsilometes stated that the Commission has worked with the fight promoters and the Bureau of Occupational Licenses to deal with the deficit. This bill will lead to fiscal solvency and debt reduction. **Mr. Katsilometes** addressed each of the changes within the bill beginning with page 1, lines 34-36 add procedures for the recovery of costs and fees incurred from an unsuccessful contest decision; page 2, lines 32-35 provide that certain costs incurred in the investigation and prosecution of a violation by a licensee or permit holder may be recovered; page 3, lines 46-48 increase the event promoter's initial event tax from \$400 to \$1,000; page 4, lines 6-9 change the event tax percentage from five to nine percent and lines 11-15 require tickets to be issued, sold and distributed by an independent ticket distributor; and, page 5, lines 16-21 require operation to be suspended when debt reaches \$200,000.

These challenges, along with some cost savings measures, should allow the Commission to address the deficit and become self supporting. All affected parties are in agreement with this approach.

Senator Hill asked what the Commission's debt is now. **Mr. Katsilometes** responded that it is \$179,000. **Senator Hill** commented that if operations are suspended, it sounds like it will be the end of the Commission. **Mr. Katsilometes** agreed; the Commission would be eliminated and they couldn't issue licenses. This bill would help make them self-sufficient and other actions would help them pay off some of the debt.

Senator Hill referred to page 1 and cost recovery. How often does a fighter challenge a decision? What are those costs when that happens? **Mr. Katsilometes** said that when disputes happen, 90 percent of the time they are resolved by the end of the fight. Those that go longer happen about every other month. In one instance, the cost amounted to \$25,000 which went back to the Bureau of Occupational Licenses. The object is to get away from frivolous challenges.

Chairman McKenzie said that one instance cost \$25,000 and right now you are within \$25,000 of the cap. He supports the elements of this bill but there is a concern about how close the Commission is to that cap right now. Is there any thought about increasing that cap? **Mr. Katsilometes** deferred to Tana Cory, Chief, Bureau of Occupational Licenses.

Ms. Cory responded that if this bill had been in place last year, they would have raised \$9,000 and, if that continues, it can prevent them from going into further debt. The Bureau has one fund and sustainable boards should not support those who are not. The cap provides an opportunity to work out the issues but it also doesn't allow the buildup of a big deficit that would mean returning to the legislature for funding.

Senator Fulcher asked for clarification regarding the move to an independent ticket distributor. **Mr. Katsilometes** answered that over the years, the Commission has not been able to control how many tickets and how much money is brought in by the promoters who work with the venue operators. This provides the ability to have more control. The Commission would select the vendor and they could make sure the number of tickets and people were accounted for to prevent disparity in the ticket sales which would bring in some dollars that have probably been lost in past years. **Senator Fulcher** asked how prices are set. **Mr. Katsilometes** said that the promoters set the prices and that is why they should share more of the burden since they have the ability to increase ticket prices.

Senator Lodge inquired if there was a time limit set for filing complaints. **Mr. Katsilometes** responded that there is no time limit but they usually file right after the fight. **Senator Lodge** asked why the decisions couldn't be made right then as the do at a rodeo. **Mr. Katsilometes** stated that is what they are trying to do. Mediation would be done immediately following a fight and the filing of a complaint.

MOTION: **Senator Lodge** moved to send **H 245** to the Senate floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by voice vote. **Senator Lodge** will carry **H 245** on the Senate floor.

MOTION: **Senator Winder** moved to approve the minutes for March 4. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PAGE GRADUATION: **Chairman McKenzie** called Page, Zach Baron forward to present a letter of commendation, a letter of recommendation and a watch in recognition of his service to the Committee. He ask Zach to tell the Committee about his future plans. **Zach** said he would spend one semester at BYU Idaho before going on a mission. Upon return, he will transfer to BYU Provo and then go on to law school.

Chairman McKenzie recognized intern Lexy Leahy, a Boise State student, who has been a huge asset and stated his appreciation for her service and thanked Twyla Melton, Committee Secretary, for her contribution to the Committee.

ADJOURNED: Being no further business, the meeting was adjourned at 9:27 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
2:15 P.M.
Room WW54
Thursday, March 28, 2013

NOTE CHANGE OF TIME AND LOCATION

SUBJECT	DESCRIPTION	PRESENTER
<u>HCR 21</u>	To establish an interim committee to study all aspects for the state to acquire title and control of certain public lands.	Representative Denney
<u>HCR 22</u>	To ask the Federal Government to cede title of certain public lands to the state of Idaho.	Representative Denney

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Thursday, March 28, 2013

TIME: 2:15 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 2:15 p.m. with a quorum present and welcomed Representative Denney to the Committee.

**HCR 21 AND
HCR 22** **HCR 21** - To establish an interim committee to study the aspects for the acquisition of certain public lands.

HCR 22 - To ask the Federal Government to cede title of certain public lands to the state of Idaho.

Representative Denney opened discussion on both **HCR 22**, which will be the one discussed the most and **HCR 21**, which authorizes the legislative council to set up an interim committee to study the issues related to **HCR 22**.

HCR 22 makes the historic and legal case for the transfer of title of public lands within the boundary of the state of Idaho from the federal government to the state of Idaho. **Representative Denney** explained the process and expectations from the time Idaho gained statehood and the actions of the federal government in relation to public lands. In most cases, the federal government has extinguished title to all but four or five percent of the lands within the states. Idaho's state founders relied on this precedent when they made the statehood agreement.

The bigger policy issue before us is the ownership and management of the lands within our boundaries. The ownership of the land is key to the management. We don't want to acquire title to these lands to sell them to the highest bidder; the state constitution only allows for 320 acres to be sold to a single buyer. In fact, the precedent on how state lands have been managed is apparent in the endowment plans that are now in place. Over the years, a small portion of the endowment lands have been sold but the vast majority has been held in state ownership and managed for the benefit of the endowments.

Last summer, nearly two million acres of public lands and forest burned in the state. Years of harvesting only a fraction of the annual growth has led to the buildup of fuel in the forest that waits only for a dry year and an ignition source. It is not the fault of the federal agencies but rather, a bureaucratic, dysfunctional system of conflicting laws and court decisions. For example the typical federal process goes:

Identify that there is a problem.

Proposed timber sale to isolate the problem.

Environmental assessment that takes two to five years.

Followed by a decision.

Followed by an appeals to the decision.

Followed by litigation.

Contrast the state process:

Identify the same problem.

Proposed timber sale to isolate the problem.

The sale is made.

The contractor, following the Idaho Enforced Practices Act, removes the timber.

The problem is taken care of.

This is not a proposal to clear cut the entire forest but to manage it for multiple uses and sustained yields.

According to some economic data provided by the Department of Lands, if Idaho was to manage the resource, an expected annual sustained yield would be 800 million to one billion board feet; that does not exceed the annual growth. Between 14,000 and 18,000 jobs would be created annually with an annual payroll of over \$600 million and an economic impact of about \$2.5 billion. In addition, active management is an economic imperative benefitting the environment with fewer and less intense fires therefore, emitting less green house gasses and mercury; improving habitat for wildlife; protecting the ecosystems; and enhancing recreational opportunities. **Representative Denney** said he believed that active management and state ownership would be good for everyone.

Chairman McKenzie asked if the interim committee was authorized to study this issue, would it necessitate adopting **HCR 22**? **Representative Denney** responded that the Committee could approve both HCRs or either one of them individually.

Senator Stennett asked if there was a plan to sell those lands. **Representative Denney** answered that it is not the intent is to sell those lands.

Senator Werk said that all the questions that were to be studied had already been addressed in a 1980 study and there have been rulings in federal courts that have dismissed similar arguments. **Representative Denney** responded that there is a recent 2009 court decision where the federal government gave title to public lands to Hawaii.

TESTIMONY:

Jonathan Oppenheimer testified in opposition to both **HCR 21** and **HCR 22** on behalf of the Idaho Conservation League. The main concerns with **HCR 21** are: 1) It undermines current efforts that are creating jobs, restoring lands and providing timber to the mills. 2) It represents an unnecessary study that's been done before when nothing has changed in the interim, even with the recent Hawaii case. 3) It is contrary to the Idaho and U.S. Constitutions.

In addition to the concerns with **HCR 21** that also apply to **HCR 22**, there are other concerns that apply specifically to **HCR 22**: 1) The Idaho Constitution and Admissions Act specifically disclaim further claim to title of Idaho's public lands. 2) Courts have consistently upheld Congress' authority under constitutional principles, have dismissed attempts to demand title pursuant to the Equal Footing Doctrine, and have dismissed efforts to seek title pursuant to other constitutional or case law. 3) Public lands are priceless and must not be auctioned off to the highest bidder. 4) The fundamental basis for **HCR 22** is deeply flawed.

Senator Siddoway said that nearly 100 percent of public lands are privately owned in the eastern portion of the nation and the mill levy rate is three to four mills in those states. In Idaho, the mill levy rate is 12 to 15 mills in order to provide county funding and even then, the rate doesn't provide enough resources to adequately sustain those counties.

Mr. Oppenheimer recognized that there are discrepancies between state and federal actions, as well as state to state, but progress is being made by working with local communities to realize better land management that will provide revenue, create jobs, and increase investments. Those collaborations are working.

Wally Butler, Idaho Farm Bureau, spoke in support of the bills. His testimony mirrored Representative Denney's points and compared them to Mr. Oppenheimer's concerns.

Betty Richardson, a past United States Attorney for the District of Idaho testified on behalf of herself in opposition to both bills. She was concerned that the proponent of the legislation focused only on the possible benefits to the state. It is important that the study committee authorized in **HCR 21** take a deep and thorough look at the potential costs. The costs are not only the hard costs, it affects the costs of other agencies. Can the state pick up the \$26 million plus in payments and taxes that it currently receives each year?

Ms. Richardson is concerned with the language in **HCR 22** and urges the Committee to talk to the Attorney General's office because some of the well-intended language is misplaced. A comprehensive study by the CATO Institute regarding land management concluded that state policies are as economically inefficient and shortsighted as their federal counterparts. She recommends that the legislature do the study allowed for in **HCR 21** with an added cost analysis and urges that **HCR 22** be tabled.

Senator Davis asked Ms. Richardson what she thought would likely happen if **HCR 22** passes. **Ms. Richardson** anticipated that it would be forwarded to Congress through the congressional delegation. It is Congress, not the state legislature that would make the transfer. If **HCR 22** does move forward, it behoves the legislature to do the study first.

Representative Denney, in closing, submitted two graphs (Att. B and C). One showed the history of the timber harvest on private lands and state lands which have been uniform over the last 60 years. The harvest on federal lands, starting about 1990, drops way down. The second chart showed the history of forest fires over the same time period. In 1990 the forest fires in the 11 western states went up. Both concurrent resolutions need to go forward because they start the discussion on active land management even if the land is not transferred.

Senator Siddoway declared a conflict of interest under Senate Rule 39 (h) since he runs livestock on public lands.

MOTION: **Senator Siddoway** moved to send **HCR 21** to the Senate floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to send **HCR 22** to the Senate floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion.

Senator Davis stated that it is not the recitals but the conclusions that are being voted on. There is some concern about the accuracy of some of the recitals, but he will be voting in favor of the motion. He may, as a result of reading some of the material that was received during the hearing, not support **HCR 22** on the floor.

SUBSTITUTE MOTION: **Senator Werk** made a substitute motion to hold **HCR 22** in committee. **Senator Stennett** seconded the motion.

Senator Werk could live with the study in **HCR 21**. **HCR 22** is not needed to do the study. That is the reason for this motion.

The substitute motion to hold **HCR 22** in Committee failed by **voice vote**

The original motion to send **HCR 22** to the floor with a **do pass** recommendation carried by **voice vote**. **Senators Stennett** and **Werk** requested to be recorded as voting nay on both **HCR 21** and **HCR 22**. **Senator Siddoway** will carry **HCR 21** and **HCR 22** on the Senate floor.

ADJOURNED: The meeting adjourned at 2:52 p.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary

AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
10:45 A.M.
Room WW55
Tuesday, April 02, 2013

SUBJECT	DESCRIPTION	PRESENTER
RS22348C2	Print Hearing at the request of the Education Committee Relating to Education	Senator Goedde, Tom Luna, State Superintendent and Representative DeMordaunt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

Twyla Melton

Room: WW42

Phone: 332-1326

email: ss taf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Tuesday, April 02, 2013

TIME: 11:30 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED:

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 11:26 a.m. with a quorum present.

RS 22348C2 A request to print from the Education Committee presented by the Education Committee Chairman, Senator Goedde.

Senator Goedde stated that **RS 22348C2** addresses sections 25 and 26 of the education budget bill that was presented on the Senate floor.

MOTION: **Senator Werk** moved to send **RS 22348C2** to print. **Senator Lodge** seconded the motion.

Senator Davis thanked the Superintendent of Public Instruction, Senator Goedde and Representative DeMordaunt for the last minute work with various parties to find a solution to the issues regarding the education budget bill resulting in this RS. **Senator Davis** also recognized contributions from Senator Mortimer.

Senator Winder thanked the stakeholders for their participation in the process, building a consensus and sent kudos to the House and Senate Education Chairmen.

The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 11:31 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary